

Doing Business in Canada

2009



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1. Introduction

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in over 70 countries throughout the world. Business partners work together through the network to conduct trans-national operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Canada has been provided by the office of UHY representatives:

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Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions.

We look forward to helping you do business in Canada.

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2. Business environment

Canada is a diverse nation offering many opportunities for foreign investors. Geographically, Canada is the second largest country in the world, with a total land and freshwater area of approximately 10 million square kilometres. Canada's boundaries are defined by three oceans (the Atlantic, the Arctic and the Pacific) and by the United States to the south. The border, which divides Canada and the United States, spans nearly 6,500 kilometres and is the longest unprotected border in the world. Both the land and the climate in Canada are remarkably diverse; consequently, each region offers different resources and different opportunities to investors. Canada is rich in natural resources: oil, timber and water are among the many resources readily available.

Population

At October 1, 2008 the total population in Canada was 34.4 million people. Over 85% of Canada's population live within 200 kilometres of the Canadian / US border and trade between the two countries along their shared border is quite active. 70% of Canada's residents live in urban areas, with 60% of those residing in the three largest urban centres of Toronto, Montréal and Vancouver.

Canada, a bilingual country, has two official languages, English and French. The vast majority of the nation's population speak at least one of the two languages, depending on the region; many are, in fact, conversant in both official languages.

The political system

Canada's governmental structure is a modern parliamentary system. It includes:

- Two federal legislatures – the House of Commons and the Senate
- 10 provincial assemblies
- Three territorial assemblies.

Canada is a self-governing state and a member of the Commonwealth of Nations. The British monarch is represented through its liaison in Ottawa, the governor-general of Canada. This relationship traditionally holds a ceremonial function in Canadian politics.

3. Foreign investment

Forms of business organisations

There are several different organisational structures available to investors who wish to establish a business in Canada. The principal options are listed below, with brief descriptions highlighting the advantages and disadvantages of each.

Unlimited Liability Corporations

Unlimited Liability Corporations may be treated as a flow-through entity in some foreign jurisdictions (i.e. the United States) while it is treated as a normal corporation for Canadian income tax purposes.

An unlimited liability corporation (ULC) shelters shareholders from liability in most circumstances except upon liquidation of the company.

The ULC has become a useful vehicle for the acquisition of a Canadian business by a U.S. investor due to preferential tax treatment.

ULCs exist in three of Canada's ten provinces. Alberta, (AULCs for Alberta Unlimited Liability Corporation) and Nova Scotia (NSULCs for Nova Scotia Unlimited Liability Company) and British Columbia.

Sole proprietorship

This is the simplest form of business organisation in Canada. It is a business wholly owned by one person. Business is carried out either under the owner's name or under a different operating business name. Other than obtaining the necessary local permits and maintaining proper records, there are few formal filing and reporting requirements in most jurisdictions pertaining to the formation and the maintenance of an individually held business.

There are disadvantages to owning and running a sole proprietorship. An individually owned business does not exist as a distinct legal entity from its owner; therefore, the owner is subject to unlimited personal liability for claims against the business. Furthermore, any income earned is taxable in the owner's hands.

Partnership

A partnership is an entity formed for the purpose of conducting a specific business endeavour by two or more parties. Generally, partnerships are formed between individuals and / or corporations.

There are two common forms of partnership enterprises in Canada, general and limited. In a general partnership, each partner contributes both capital and effort, and each share in the partnership's profits. Every partner in a general partnership has joint and several unlimited liability for the debts incurred by the business.

In a limited partnership, the contributions of effort and capital are divided. While one or more of the partners run the enterprise, other partners contribute the capital needed to establish the business, but do not participate in its management. The latter is referred to as the 'limited partner', whilst the former is called the 'general partner'. A limited partnership limits the amount for which any partner is liable to the amounts, which are specified in the partnership agreement. Usually, the general partners have unlimited liability, but the limited partner liability extends only to the amount of the capital which they have invested.

For either type of partnership, a partnership agreement is strongly recommended, even in jurisdictions where it is not required by law. Any partnership may be established by registering with the proper authorities following the partnership's formation.

Limited Liability Partnership (LLP)

Under this form of partnership, members are personally liable for most types of partnership debt. There is however, an important exception; members of the LLP are not personally liable for obligations arising from the wrongful or neglectful action of the partners or the employees, agents or representatives of the partnership who are conducting partnership business.

The legislation governing this type of partnership varies by jurisdiction. For example, in Ontario, only lawyers, chartered accountants and certified general accountants are currently permitted to form such partnerships. In contrast, Alberta extends the legislation to include several other professional groups. B.C. allows anyone, other than professionals who are not authorized by their governing legislation to form a limited liability partnership. Provinces other than those referred to above, currently do not have LLP legislation in place.

Corporation

Unlike sole proprietorships and partnerships, a corporation is a distinct legal entity from its owners. It is relatively simple and inexpensive to register a corporation. In Canada, a business may be federally or provincially incorporated, according to the location and the type of business activity under which the business operates. Because no special status is attached to a federal incorporation, every corporation formed under the federal statute must comply with provincial laws under which the corporation operates. Also, federal corporations may have certain

requirements, which may not necessarily be imposed upon provincially incorporated companies.

There are two basic classifications of corporate organisations - public and private. A private corporation cannot trade its shares publicly and is limited to a certain number of shareholders. Public corporations, on the other hand, are subject to extensive reporting and disclosure requirements and must file a prospectus with the relevant provincial securities commissions before offering their shares for public sale.

A corporation protects its investors and offers them easier access to capital and financing opportunities than unincorporated ventures. However, the cost to set up and maintain a corporation is generally higher and subject to increased levels of government regulation and reporting requirements.

Joint venture

A joint venture is an arrangement made between two or more business entities (corporations, partnerships, proprietorships, or some combination of these), to undertake a specific business activity. All parties contribute capital, labour or other resources, as determined in their agreement, and share the profits accordingly. A joint venture is normally a temporary structure, which dissolves when a project is completed. Although it is similar to a partnership, a joint venture has no distinct legal status in Canada and is not taxed as a partnership.

Other forms of business organisation

There are several other forms of business organisation recognised under Canadian law, which may prove useful to specific circumstances and types of businesses. These include trusts and unincorporated foreign companies.

Because Canadian provinces have slightly different registration, licensing and reporting requirements for business, foreign investors should obtain professional advice in the relevant province or territory before deciding on which type of business organisation will best suit their objectives.

4. Setting up a Business

As discussed previously, there are several different organisational structures available to investors who wish to establish a business in Canada. The three main structures available include Sole Proprietorships, Partnerships, and Corporations.

Registration

There are a number of steps involved in setting up a business in Canada:

1. Select preferred business structure:

This should be done with the aid of a Canadian professional advisor in the province or territory that business activities are expected to take place.

2. Approval of business name:

Before a sole proprietorship or a corporation can be registered, a business name must be decided upon and submitted to the appropriate provincial government agency for approval.

3. Registration of business:

Once a business name has been approved, it is reserved for a limited period of time. During this time a declaration form (for a Sole Proprietorship or partnership) or incorporation papers (for a corporation) must be submitted and filed. Registration can then be done online, in person or via mail.

4. Apply for a business number:

Once registration is complete, a business number must be applied for. This number will serve as the business' identification number for a number of purposes including employee payroll deductions, corporate income tax (if applicable), GST (Goods and Services Tax) and Import / Export.

In certain provinces, the incorporation process automatically assigns a business number for corporate income tax. A request to add on registrations for GST, payroll or import / export can be made after incorporation.

Goods and Services Tax

Goods and Services tax is a 5% tax levied on most goods and services provided in Canada. Any business that has gross revenues in excess of \$30,000 in a single calendar quarter or in four consecutive calendar quarters must register for GST. The business entity must then collect and remit GST on their sales. The business can then claim a refund on GST paid on its business expenses.

Payroll Deductions

A business will have to register for payroll deductions with Canada Revenue Agency if the business has any employees. Income taxes, Canada Pension Plan deductions and Employment Insurance deductions will need to be withheld and remitted from all salaries and benefits provided to employees.

For more information on setting up a business in Canada please refer to the following government website:

<http://investincanada.gc.ca/eng/establish-a-business.aspx>

5. Labour

The Canadian labour force is well educated and highly skilled. Employers are able to draw employees from a very diverse labour pool, which includes workers, the trades and management sectors, as well as from the professions - especially in the larger urban areas.

Total labour force: 18,319,000 people, of which 47% are women.

Industrial sectors:

- Service industry 76%
- Manufacturing 11%
- Trade (including retail) 13%

Canada's labour force

Labour force figures (in 1,000s)

(Determined from Canada's population aged 15 years old and up)

Population aged 15 and up: 27,098

Labour force: 18,319

- Employed: 17,110
- Full-time: 13,921
- Part-time: 3,189
- Unemployed: 1,209

Gender breakdowns of population aged 15 years and older:

- Male 13,252
- Female 13,846
- Total 27,098

TABLE I

Employment by industry

	Number of employed (in 1,000s)		
	Male	Female	Total
Goods - producing (incl. agriculture)	3,353	994	4,347
Service – producing	5,898	7,206	13,104
Total	9,251	8,200	17,451

TABLE II**Gender breakdown of labour force (in 1,000s)**

	Male	Female	Total
Labour force	9,654	8,591	18,319
Employed	9,021	8,104	17,125
Unemployed	632	486	1,118
Not in labour force	3,597	5,081	8,678
Participation (percentage)	72.9%	62.8%	67.8%
Percentage breakdown			Percentages
% of population employed			63.6%
Total participation of labour force			67.8%
Unemployed			7.8%

Unions

Every province in Canada has legislation which guarantees workers the right to organise and to participate in collective bargaining. They also have legislation that prohibits employers from engaging in discriminatory or retaliatory tactics against any employee for his or her union activities. Labour relation agencies throughout Canada are responsible for certifying unions. The mediation of labour disputes and mandatory conciliation is often presided over by the government.

Unless you are a Canadian citizen or permanent resident, you must hold a valid employment authorisation (EA) in order to work in Canada. The EA approval process involves both consideration of the job offer and consideration of the applicant.

Employment standards

As with union legislation, each province in Canada has legislation, which outlines those rights and entitlements every worker may expect from his or her work environment.

Hours of work and overtime pay

Generally, the number of hours worked in a day is between seven and eight hours, or 35 to 40 hours a week. The usual work week for hourly paid industrial workers is 40 hours, whilst office and clerical staff generally work from 35 to 37.5 hours per week.

Employees who work more than an established maximum number of hours a week are entitled to compensation at 150% of their regular work wages for their overtime work.

Minimum wage

The minimum wage rates, set to ensure an adequate standard of living, are determined by provincial or territorial jurisdiction. They vary from \$6.70 to \$8.50 per hour, depending upon region and type of employment.

Vacations and statutory holidays

New employees are entitled to two weeks of paid vacation per year in all provinces except Saskatchewan, which requires three weeks per year. Several provinces also require that employees with a certain number of years of uninterrupted service with one employer receive additional weeks of paid holiday.

In addition to vacations, most Canadian workers are entitled to be paid for the seven national statutory holidays, as well as any statutory holidays established by province or territory. Certain categories of essential workers are excluded. Individually owned and operated businesses may institute additional days off for their employees.

Statutory holidays:

- New Year's Day:* January 1st;
- Good Friday: the Friday before Easter;
- Victoria Day: the Monday on or before May 24th;
- Canada Day:* July 1st;
- Labour Day: the first Monday in September;
- Thanksgiving: the second Monday in October;
- Christmas:* December 25th.

* When these dates fall on Saturday or Sunday workers are entitled to a day off on the following Monday.

Termination

Each province has legislation governing the procedure that all employers must follow when terminating an employee; they also set the minimum compensation payments, which must be made when terminating an employee.

Other concerns

Issues such as maternity leave, pay equity, employee benefits, health and safety regulations, and human rights regulations, each have specific legislative requirements from either the federal or provincial governments, or both. Any potential investor should be clear on the rules and regulations before embarking on any business venture in Canada.

Statutory deductions

Employers are required to deduct income tax, Canada / Quebec Pension Plan, and Employment Insurance premiums from their employees' wages, and to remit these amounts, along with employers' contributions, to the appropriate government department.

Before embarking upon a business venture, investors and prospective employers should fully inform themselves of the rules and stipulations regarding employee rights and deductions at source by contacting a qualified professional who specialises in business affairs.

6. Taxation

Legislation at the federal, provincial and municipal levels grants governing authorities the right to tax its citizens and residents. Taxes are levied on income, capital gains, goods and services, and property. There are also excise taxes, duty fees, tariffs, land transfer payments and probate taxes imposed on businesses and individuals that work and live in or who visit Canada. Taxation rights on income are granted by provincial and federal laws including:

- The Income Tax Act
- Income Tax Application Rules (ITAR); 1971
- Income Tax Regulations
- Income Tax Conventions; The Interpretations Act; International Tax Treaties with other countries regarding taxation
- Provincial Tax Acts and related regulations
- Case Law.

*Please note: Any tax treaty between Canada and another country should override any inconsistency, which may arise between the treaty and the provisions of the Income Tax Act, the ITARs or the regulations. This minimises those situations where an individual or business entity may be subject to double taxation.

Federally, the Department of Finance is responsible for drafting Canada's tax laws. Its recommendations are sent to the House of Commons and, if accepted there, to the Senate for approval. The Canada Revenue Agency is the federal agency which administers tax law and collects taxes.

General tax administration

Whilst property taxes are generally levied by municipalities, taxes on both corporate and personal income are levied at the federal and provincial* level. All residents of Canada and any corporation residing or incorporated in Canada are taxed on their worldwide income. Non-residents of Canada are taxed only on their income from Canadian enterprises or Canadian investments (subject to the provisions of any applicable International Tax Treaty). Taxes are collected both federally and provincially. The provinces of Alberta and Ontario require corporations to file separate income tax returns at the provincial level; Quebec requires that both individuals and corporations residing in Quebec file tax returns, and the rest of the provinces have their income taxes collected federally.

All corporations must file income tax returns for each fiscal year even when they have no tax liability. The corporate return must be filed within six months of their fiscal year-end. Taxes payable are due, generally, two months after year-end. Businesses choose their fiscal year end during the first year of operation; however, the first year-end may not exceed 53 weeks in its duration. After the fiscal year-end is established, it may not be changed without government approval.

Partnerships, comprised of individuals and corporations, are required to file a Partnership Information Return, on or before the earlier of March 31st, following the calendar year in which the partnership's fiscal year ended; or the day that is five months after the end of the partnership's fiscal period. If all of the partnership members are individuals, the due date is March 31st, whereas if all of the partnership members are corporations, then the due date is five months after the end of the partnership's fiscal period. Partnerships are not liable to Canadian taxation; rather, the partners are subject to tax in respect of their allocated share of the partnership's income.

Trustees of a trust must file a trust tax return within 90 days of the calendar or fiscal year-end of that trust.

Individuals are taxed on a calendar year basis, and are required to file an income tax return by April 30th of the following year (or by June 15th if they are self-employed, although income taxes are due April 30th). Each person must file a return; joint returns for married couples are not allowed. Individuals who have a capital gain (or loss) must file a return even if no tax is due for the year.

The rate of tax for corporations throughout Canada is between 13% and 39%. This rate is determined by the corporation's provincial residence, as well as the nature of its taxable income.

TABLE III**Combined corporate federal and provincial marginal tax rates (2008)****Canadian Controlled Private Corporation (CCPC)**

Source of income	Business located in:		
	Quebec	Ontario	British Columbia
General small business and small business manufacturing (taxable income less than \$400,000*)	19%	16.5%	14.5%
General active business and manufacturing Income (taxable income over \$400,000*)	30.9%	33.5%	30.5%
Investment income (the rates includes a 6½% tax that is refundable when CCPC pays taxable dividends)	46.1%	48.7%	45.7%

* (\$500,000 in 2009)

Non-CCPC

Source of income	Business located in:		
	Quebec	Ontario	British Columbia
General business (active / eligible income)	30.9%	33.5%	30.5%
General business (other)	30.9%	33.5%	30.5%
Manufacturing business	30.9%	31.5%	30.5%

After receiving an income tax return, the government (either federal or provincial) will make a preliminary review of the file. This process involves a review of all of the basic information provided and verification of all of the calculations included in the return. The taxpayer is then sent a Notice of Assessment, which details the tax liability and informs the taxpayer of the balance due or balance to be refunded.

Payment of taxes

Corporations pay their taxes in monthly instalments based upon the anticipated income for the current year or upon an estimate based on the prior year's income, whichever amount is less. At its fiscal year-end, a company generally has two months to pay any tax balance owing. Late instalment payments are subject to interest charges and other penalties.

Individuals who report a difference between their tax payable and their deductions at source, which is greater than \$3,000 (\$1,800 in Quebec) for both the current year and either of the two preceding years, are required to make quarterly instalment payments to the government.

Individuals who are members of a partnership or who run a sole proprietorship do not make tax payments on their business's reported income when they file the information return to the government. Instead, that income is reported in their personal income tax returns and they make quarterly payments, if required, as individual taxpayers.

Any interest earned from an income tax refund is included in the total income earned in the year in which it is received. However, interest charged and paid on late instalment payments is not deductible. The rate of interest charged for late payments and under - remittance of tax is revised quarterly and is set at a rate 4% higher than the average interest rate on 90-day Treasury Bills in the preceding calendar quarter. An offset of taxable interest income and non - deductible interest expense may be permitted in certain situations.

Corporations and income tax

Taxable income

A corporation's taxable income for the year is calculated by adjusting the net income reported in its financial statement for that year for items such as: capital gains, dividends, charitable donations and loss carryovers, thus calculating the total taxable income to be used in the income tax return.

Each company's income is calculated separately; consolidation of the income of related corporate entities is not permitted. The following sources of income would comprise part of a corporation's taxable income:

- Business income
- Dividends received from non - Canadian corporations. Special rules apply if the dividend is from a "foreign affiliate"
- Capital gains
- Gains from the sale of intangibles
- Interest and other investment income
- Canadian dividends paid to non - residents create a withholding tax liability
- Foreign accrual property income (FAPI) of shares owned of a controlled foreign affiliate, whether or not there has been an actual payment or distribution of all or any part of such FAPI.

FAPI is defined to include income of an investment nature, such as interest, dividends, royalties and certain rents, as well as income from a business, other than an active business. Taxable capital gains are also included, except where such gains arise from dispositions of property used principally by the affiliate in connection with an active business.

Inventory

Inventory is valued, for income tax purposes, at the lower of either cost or fair market value. Value may be determined by the "first-in; first-out" method, or by most other established costing methods. However, once a method is chosen it must be consistently applied each year. The method of valuation may be changed only if permission is granted by the taxing authorities. Reserves for future obsolescence are a contingent reserve, and would, therefore, not be tax deductible.

Capital gains and losses

Capital gains or losses are taxable or deductible at a rate of 50% of the gain or loss realised from the disposal of capital assets. The capital gain or loss is calculated as the proceeds of disposition in excess of the adjusted cost base and the expenses related to the disposition of the property. Capital losses are deductible only against capital gains, and may be carried back for three years and forward indefinitely.

Depreciation and capital cost allowance

The Income Tax Act, and more particularly the Income Tax Regulations, specifies the maximum rate of depreciation, which may be deducted when calculating taxable income for a business. This rate is referred to as Capital Cost Allowance (CCA).

Provided that the rates do not exceed the maximum allowed by law, CCA is generally calculated using the declining balance method. The asset class and classification determine the rates, which range from 4% to 100%. Fixed assets are reported in separate classes, depending upon the nature of the asset, which are summarised and reconciled on the annual tax return. CCA is a discretionary claim; hence, a taxpayer has the option to claim less than the maximum CCA permitted in the year. If this is the case, the undepreciated balance in the specific asset class is preserved and carried over to the subsequent year, although the taxpayer does not have the right to claim additional CCA in a taxation year equal to the forgone CCA claim of a prior year.

Except for those asset classes where the straight-line method for calculating depreciation is prescribed, the CCA rates are applied to the net balance of the asset class at the end of the taxation year. In the year of acquisition of an asset, taxpayers are generally allowed to employ only 50% of the maximum rate normally allowed; this is called the half-year rule.

Depreciable assets purchased in one tax year, but which are not delivered or used until the next taxation year, are eligible for CCA only in the tax year in which they become "available for use". Notwithstanding the foregoing rule, the depreciable property is deemed to be available for use

on the first day of the second taxation year, following the taxation year in which the depreciable property is acquired. In this case, the half-year rule is not applicable.

Land is not a depreciable asset. Depending upon the facts and circumstances, land is either characterised as inventory, which is fully taxable as business income (loss) when sold, or as capital property, resulting in a capital gain (loss) when sold.

Should the last depreciable asset of its class be sold for proceeds that are less than the remaining undepreciated capital cost (UCC) of the class, the residual balance in the class may be deducted as a "terminal loss". Should a depreciable asset be sold for more than the UCC balance of its class, a recapture of depreciation equal to the difference between the capital cost and the UCC of the class will be fully taxable. Any amount of proceeds exceeding the asset's adjusted cost base is taxed as a capital gain.

Intangibles

Those intangible expenditures with an unspecified expiration period, such as goodwill, customer lists, and certain legal fees, generally qualify for a special tax treatment. These and other types of acquisition costs may qualify as an Eligible Capital Expenditure (ECE). Seventy-five percent of the ECE is added to the cumulative eligible capital account and may be deducted at a rate of 7% per annum, computed on a declining balance basis. Generally, the cost of an intangible asset with a limited life, such as a trademark, is subject to the CCA rules, and is deductible over the life of the asset.

Dividends

Dividends received by a Canadian corporation from another Canadian corporation are generally deductible from income where the two corporations are connected for tax purposes. Two corporations are considered to be connected where the recipient controls the payer, or where the recipient holds shares representing more than 10% of the votes and value of the payer corporation.

Where the corporations are not connected, dividends received are subject to a 33.3% tax under Part IV of the Income Tax Act. Where the recipient is a private Corporation, the Part IV tax is added to the refundable dividend tax on hand (RDTOH) account of the corporation. Taxable dividends, paid by a private corporation, entitle the payer to a dividend refund equal to \$1 for every \$3 paid, or the balance in the RDTOH account, whichever is less.

For several years, a system existed of 'grossing - up' a dividend at 25% from a Canadian Corporation and then giving relief for the underlying corporate tax as a dividend tax credit for $\frac{2}{3}$ of the gross - up amount (or 13.33% of the grossed - up dividend) to the individual. New rules in the

Income Tax Act provide that “Eligible Dividends” paid after 2005 will be grossed - up by 45% and the corresponding dividend tax credit to the individual will be $\frac{11}{18}$ th of the gross - up, or approximately 19% of the grossed - up dividend.

Eligible Dividends are dividends paid after 2005 by publicly traded companies (and certain private companies as outlined below). Typically, corporations paying Eligible Dividends have had income taxed at combined federal/provincial tax rates in excess of 30%.

The gross up on Eligible Dividends received is 45%. The federal dividend tax credit is equal to $\frac{11}{18}$ th of the dividend gross up.

Some types of CCPC income (typically income in excess of the small business rates) provide a basis for determining Eligible Dividends. This account is referred to as the General Rate Income Pool (GRIP), a CCPC can declare dividends that can be designated as Eligible Dividends.

Dividends received from a connected corporation, which are otherwise tax-free, are nevertheless subject to Part IV tax to the extent that the payer corporation received a dividend refund upon payment of the dividend.

Tax credits

Small business credit

A 17% tax rate reduction in federal tax is applied to the first \$400,000 (\$500,000 in 2009) of income from an active business, carried on in Canada by a Canadian controlled private corporation (CCPC). A CCPC is a private Canadian corporation, other than a corporation controlled directly or indirectly, by one or more non - residents, by one or more public corporations, or by any combination thereof.

If the taxable capital of the company exceeds \$10 million, the tax rate reduction begins to erode and is completely eliminated once taxable capital exceeds \$15 million.

The credit must be shared among associated corporations (generally, corporations under common control). Most provinces also provide similar small business tax credits. Certain provinces offer their own small business deductions.

Manufacturing and processing credit

Certain provinces offer their own manufacturing and processing incentives.

Investment tax credit

Certain corporate investments qualify for an investment tax credit equal to 10% of the cost of investment. Investment tax credits (ITCs) may be used to offset the federal income tax. Qualifying investments include: property

acquired for a designated activity in the Maritimes or the Gaspé Peninsula of Quebec. Designated activities include: manufacturing and processing, the extraction and production of petroleum, natural gas or minerals, logging, farming, fishing, grain storage, and in some cases, the production of electrical energy or the processing of steam to produce electricity.

Scientific research and experimental development (SR&ED)

Special high rates of ITC are available for qualified expenditures in respect of scientific research and experimental development (SR&ED). The general rate is 20%. An enhanced rate of 35% is available for a CCPC where the corporation's taxable income in the previous year (including taxable income of all associated companies) is less than \$400,000. If the \$400,000 taxable income limit is exceeded, the 35% enhanced ITC is phased out on a pro - rata basis for taxable incomes between \$400,000 and \$600,000. Where the 35% ITC rate applies, it is limited to no more than \$2 million of qualifying SR&ED expenditures made in the year by the corporation and its associated companies.

The 2008 budget proposes to increase the maximum qualified expenditures to \$3M (for CCPC's) for taxation years ending February 26, 2008.

The expenditure limit is phased out as taxable income increases from \$400,000 to \$700,000.

Loss carryovers

Operating losses for any taxation year may be carried back as a deduction in the calculation of taxable income of the previous three taxation years and forward for the next twenty years. Taxpayers may choose the portion of the loss to deduct within this carryover period; all or part of a non - capital loss may be claimed to reduce taxable income.

Capital losses for a taxation year may be carried back three years and forward indefinitely. Capital losses carried over may be applied only against capital gains of other years.

Acquisition of control

If control of a corporation is acquired during a taxation year, a non - capital loss carryover becomes restricted to future income from the loss business, or a same or similar business, provided that the business, which gave rise to the losses, continues to be carried on with a reasonable expectation of profit.

A capital loss carryover is extinguished subsequent to an acquisition of control. A corporation will be subject to a deemed year - end immediately prior to an acquisition of control. This will result in several consequences, including the requirement to file corporate income tax returns, a pro - rating of certain claims, such as CCA and the small business deduction, and the aging of loss carryovers.

In addition, an anti - avoidance provision comes into play, which has the effect of deeming assets with unrealised losses disposed of for fair market value. These deemed losses are added to the existing losses, and are subject to the loss restrictions mentioned above. In order to allow relief in such situations, special rules would allow an election to trigger deemed dispositions on certain assets with unrealised gains.

Other corporate taxes

Large corporations tax

The Large corporations tax was eliminated for taxation years after 2007.

Provincial capital tax

Saskatchewan, Manitoba Ontario, Quebec, New Brunswick and Nova Scotia levy corporate “capital” taxes on the taxable capital employed in their province by corporations with permanent establishments therein. Capital tax rates are assessable by province and are levied on a corporations’ taxable capital.

Non - resident corporations doing business in Canada.

A Canadian branch of a non - resident corporation is subject to the same rates of tax as Canadian corporations on its taxable income earned in Canada, based upon the amount of income earned in Canada, and subject to possible treaty protection. A Canadian branch is also subject to a 25% branch tax on repatriated after - tax profits, unless reduced by treaty.

Branch tax seeks to impose a tax comparable to the dividend withholding tax that would be paid if the Canadian operations of the foreign company were conducted through subsidiary corporations, repatriating profits as dividends to its non - resident parent (please see section entitled “Non - resident withholding taxes).

Individuals and income tax

Residents and non - residents

As mentioned previously, all persons resident in Canada in the year are taxed annually on their worldwide income. Residency is a question of fact. The courts have held that a person is resident in Canada if Canada is where the individual regularly lives in the “settled routine of his or her life”. Factors that are taken into account in determining residency include the residence of the spouse and children, permanency of living arrangements, and social and economic ties to Canada.

Individuals, who emigrate from / immigrate to Canada, are generally considered part - year residents as of the day they enter / depart the country. A part - year resident is subject to tax in Canada on worldwide income, only for their period of residency.

In addition to ordinary residents, the Act treats non - residents who sojourn in Canada for 183 days, or more, during a calendar year as if they were resident of Canada for the entire year, and imposes taxes on their worldwide income.

Where, under the respective domestic laws, an individual is a resident of both Canada and a foreign country, which has a treaty with Canada, the so-called "tie breaker rules" of the treaty will ultimately determine the country in which the individual is resident for tax purposes.

Non - residents who earn Canadian employment or self - employment income, or who disposed of taxable Canadian property, are required to file an income tax return and pay taxes on that income to the Canadian government, unless there are overriding considerations in an existing tax treaty between Canada and the individual's country of residence.

The rate of tax levied on an individual is determined by the individual's taxable income. As income increases, the marginal rate of tax increases. A number of tax credits are allowed, which serve to reduce the amount of tax due by the taxpayer. The tax credits available are varied. Tax credits available for individuals include, but are not limited to:

- Personal and spousal credit
- Medical expenses tax credit
- Child tax credit
- Education expenses tax credit (depending on status and nature of education)
- Foreign income tax credit
- Investment tax credit
- Charitable donations tax credit
- Federal and provincial political party donation tax credit
- Overseas employment tax credit
- Pension credit
- Disability credit
- Dividend tax credit.

These and other tax credits are applied in calculating the individual's tax liability.

Capital gains are included in taxable income at the rate of 50%.

Provincial income tax

The federal government, with the exception of Quebec, which requires the filing of a separate Quebec personal tax return, collects provincial income tax. The federal government provides a tax abatement to all residents of Quebec.

TABLE IV

Other taxes

Federal customs duties

A schedule of goods, classified by the 'essential nature', which is characteristic of the goods in the Canadian Customs Tariff, provides the rate of duty applied to a variety of imported items. There are currently seven major tariffs which are imposed by the Canada Revenue Agency:

- General tariff
- Most favoured nation tariff
- British preferential tariff
- General preferential tariff
- Least developed countries tariff
- Commonwealth Caribbean countries tariff
- The North American Free Trade Agreement (NAFTA).

Generally, the countries of origin, or export, and any bilateral or multilateral trade agreements, which exist between the exporting nation and Canada, determine the tax treatment which will be applied to imported items. The rate of tariff imposed on an item is usually determined 'ad valorem'; the tariff levied is determined according to the value of the item(s).

NAFTA, which came into effect on January 1st, 1994, has reduced the tariffs imposed on goods entering Canada, Mexico or the United States from either of the other two nations. Eventually, tariffs will be removed entirely for any trade between these nations. Free trade is available only to those goods that originate from any of the three countries, as defined in the existing rules of origin agreements.

Excise taxes

Excise taxes are levied on several goods by the federal government and some provincial governments. Taxes are imposed on jewellery, automobiles, automobile air conditioners, watches and clocks, gas and other sources of fuel, cigarettes, tobacco and alcohol products. The various governments also levy excise taxes on the production of cigarettes, tobacco products and alcoholic beverages. The rate of tax levied is based on duty - paid values and varies depending upon the item.

Goods and services tax

The Goods and Services Tax (GST) is similar to the value - added tax, imposed by countries in Europe. A 5% tax is levied on the sale of goods and services at all levels of production and distribution. However, businesses that pay GST on their purchases receive a tax credit against the GST which they collect from the sale of their products. In this system, the tax is paid by the ultimate consumer or purchaser; hence, the ultimate consumer is not permitted a tax credit on the GST that is paid out.

Quebec sales tax (QST)

Quebec employs a sales tax, which is similar but not identical to the GST. The rate of tax is 7.5% and is applied to the price of goods and services supplied in Quebec, plus the applicable GST.

Harmonised sales tax (HST)

The provinces of New Brunswick, Nova Scotia and Newfoundland have implemented a harmonised sales tax system with the GST. The combined HST rate is 13%.

Provincial sales tax

Other provinces (excluding Alberta) impose a retail sales tax on goods and selected services. The rate of tax charged varies from 5% to 10% depending upon the province.

Municipal taxes

Most municipalities in Canada raise their revenue by levying a tax on the value of property in their jurisdictions. This tax liability is levied on the owner of the property at a rate, which is set annually, based on the assessed market value of the property. Occupants of business premises must pay a business tax. School boards may also levy a tax based on property value.

Land transfer taxes

About one - half of the provinces impose land transfer taxes; normally the rates vary, but are approximately 1% of the value of the property. Furthermore, non - resident purchasers may be liable for additional land transfer taxes, depending upon the type of land and province.

Death and gift taxes

Canada does not impose inheritance taxes. However, every individual is deemed to have disposed of all of his or her property, immediately prior to the date of death, for proceeds equal to fair market value at that time. Capital gains, and income arising from these deemed dispositions, are taxed at the normal marginal income tax rates for individuals. In order to avoid double taxation upon a future sale, the estate is deemed to acquire the property at a cost equal to the deemed proceeds to the deceased. Property, which is transferred to a spouse or to a qualifying spousal trust, is not subject to these deemed disposition rules.

Some provinces, such as Ontario, impose a probate tax based on the value of the estate. Canada does not impose gift taxes. However, every individual is deemed to have disposed of gifted property for proceeds equal to fair market value at that time. Capital gains and income arising from these deemed dispositions, are taxed at the normal marginal income tax rates for individuals. In order to avoid double taxation upon a future sale, the recipient is deemed to acquire the property at a cost equal to the

deemed proceeds to the deceased. Property, which is transferred to a spouse, or to a qualifying spouse trust, is not subject to these deemed disposition rules

Trusts

A trust is taxed in a similar manner to an individual, without any personal tax credits. Inter vivos trusts, however, are taxed at the highest personal marginal tax rate.

Canadian residents who receive income from a trust are taxed on that income. Non - resident beneficiaries of a Canadian trust are subject to a 25% (36% for inter vivos trusts in respect of certain designated income) withholding tax imposed on that income and deducted at source.

Non - resident withholding taxes

A 25% withholding tax is normally levied on payments made to a non - resident from a Canadian source; this includes income received from dividends, interest, rental income, royalties on certain items, and / or management fees. The flat rate is deducted at the source before the non - resident receives the income. Most tax treaty agreements between Canada and the non - resident's country reduce the amount of withholding. Canada currently has treaties with most countries that have a system of income taxation.

Interest

In most cases, interest, which is paid to a non - resident from a company, trust or individual residing in Canada, is subject to a withholding tax, unless the interest earned is exempt from withholding taxes. These exceptions include:

- Interest paid from most governmental obligations
- Interest paid by a Canadian Corporation to an arm's - length non - resident in respect of a long - term debt obligation
- Rental income and timber royalties.

As with interest income, income paid to a non - resident from rental fees of a Canadian property, or from royalties on the sale of timber, is subject to a withholding tax, which is deducted at the source. However, the non - resident may choose to file a Canadian income tax return on that income only and be able to deduct expenses such as mortgage interest, property taxes, insurance, and maintenance from the income earned. This return would be filed as if it were the non - resident's only source of Canadian income. Should a loss be realised, it may not be used to offset other sources of Canadian income subject to tax, nor may it be carried back or forward.

Effective January 2, 2008, eliminated withholding tax on interest paid to all arms length non-resident lenders.

Withholding tax on interest payments between related parties will be reduced to:

- 7% effective January 1, 2008
- 4% effective January 1, 2009
- 0% effective January 1, 2010

Management fees

Non - residents paid management fees, from a Canadian company or individual, are subject to a withholding tax on that income. The withholding taxes are removed at the source of payment before the non - resident receives it.

If a reasonable amount is paid as a reimbursement of a specific expense incurred by a non - resident on behalf of the Canadian taxpayer, the amount paid would not be subject to withholding tax. Furthermore, a service performed by an arm's - length non - resident, in the ordinary course of the non - resident's business, that includes the performance of such a service for a fee, would not be subject to Canadian withholding tax.

Services performed in Canada

Every person paying to a non - resident person a fee, commission or other amount in respect of services in Canada, of any nature, is required to deduct or withhold 15% of such a payment.

TABLE V

Exchange rates

(December 2008 monthly averages)

Country	Rate of exchange in Canadian dollars
European Monetary Union (Euro)	\$1.66696
Hong Kong (dollar)	\$0.159059
Japan (yen)	\$0.0135107
United Kingdom (pound)	\$1.83008
United States (dollar)	\$1.23277

7. Accounting & reporting

All businesses operating in Canada must maintain adequate financial records for every year in which they operate. The Canada Revenue Agency (CRA) requires that the company includes a summary of the operating results and balance sheet prepared in accordance with GAAP, as an attachment to the income tax returns each year. Individuals who receive income from a partnership or those who operate a sole proprietorship must include details with their personal income tax returns. There may also be provincial or territorial filing requirements for companies that reside in their jurisdictions.

Corporate record keeping

Taxpayers are required to keep all documents for at least six years from the date of assessment for each taxation year. In addition, certain documents should be kept indefinitely.

These documents would include:

- Documents of incorporation
- Articles and by - laws of corporation
- All minutes of shareholders' meetings and directors' meetings
- A registry of shareholders, directors, and officers
- Prescribed accounting records
- Employment records.

Corporations with annual revenues exceeding \$15 million or with capital assets in excess of \$10 million are required to file annual statistical information returns with the federal government, which include the following information:

- Changes in capital
- Information on directors, shareholders and non - resident shareholders
- Details of payments to non - resident shareholders
- Other statistical data generated in the course of business operations or as requested due to the type of business.

In addition to the above filing requirements, corporations with debt owing to a non - resident in excess of \$200,000 must file the ownership information only.

Public corporations whose stock is traded on the stock exchanges must comply with federally set reporting and disclosure requirements, as detailed in the Canada Business Corporations Act, and with any relevant provincial securities commissions or stock exchange requirements.

Continuous and regular reports required are:

- Quarterly financial statements
- Annual financial reports
- Material change reports
- Any other documents relating to business operations.

Audit requirements

Most jurisdictions require that corporations appoint auditors each year at the annual shareholder's meeting, unless the corporation satisfies the exemption requirements below:

- Their annual revenues are less than \$10 million and total assets are less than \$5 million;
- The company is a wholly owned subsidiary and its parent company was incorporated in Canada;
- The shareholders of the corporation unanimously agree to waive the appointment of an auditor at the annual meeting.

Accounting standards

Licensing requirements for auditors, or the exact nature of professional standards, are regulated by the Canadian Institute of Chartered Accountants (CICA).

CICA develops and establishes auditing standards and accounting principles and requirements to be used by accountants throughout Canada. These standards generally exceed requirements outlined by most Canadian institutions; hence, most institutions usually require that financial statements be prepared in accordance with the standards and principles outlined in the CICA Handbook. There are, however, certain industries (i.e. banking, oil, and gas) that have specialised reporting requirements imposed on them by federal or provincial statute.

The basic financial information, which must be included in a set of financial statements with comparative information, is:

- A balance sheet
- A statement of income
- A statement of retained earnings
- A statement of cash flows
- Any notes which accompany the financial statements.

CICA is a member of the International Accounting Standards Committee (IASC). Any audit carried out according to CICA standards is accepted internationally and generally satisfies the accounting standards and principles of other countries.

Financial transactions and reports analysis

Certain industries in Canada are required to report certain “suspicious” financial transactions that may be typical of a money laundering or terrorist financing nature.

8. UHY firms in Canada

Map of Canada



UHY liaison office in Canada

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Canada offers a wide range of opportunities to foreign investors. This report describes aspects of the Canadian economy likely to be of interest to potential foreign investors. It also highlights related issues, which concern businesses starting up in Canada, including tax structure and investment legislation.

It should be noted that this booklet is intended as a general overview of investment in Canada; it is not a comprehensive guide. Every effort has been made to ensure the accuracy of the information contained in this guide; however, potential business investors should obtain more detailed information and competent professional advice before proceeding with any investment in Canada.

9. UHY offices worldwide

For contact details of UHY offices worldwide, or for details on how to contact the UHY executive office, please visit www.uhy.com