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Trading or Dealing in Indebtedness Offshore: Paragraph 95(2)(l) Revisited
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Paragraph 95(2)(l) of the Income Tax Act was added as an anti-avoidance provision to discourage taxpayers that were not regulated financial institutions from parking debt in low-tax jurisdictions. A number of interpretive issues arise in its application because the provision uses broad phrases in the conditions for paragraph 95(2)(l) to apply rather than specific tests. In this article, the author discusses the interpretive and practical issues in the application of the rules faced by practitioners and taxpayers. Further, the author suggests that paragraph 95(2)(l) may warrant review, given the proliferation of tax information exchange agreements that Canada has negotiated with certain low-tax jurisdictions that offer Canadian taxpayers that are not regulated financial institutions the opportunity to form companies that are locally regulated as an offshore bank, an insurance company, or a trader or dealer in securities.

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