International Tax Planning

Co-Editors: Nick Pantaleo and C. Andrew McAskile*

RETHINKING THE CANADIAN INBOUND BUSINESS MODEL: PART 2

*Marc Darmo and Andrew McAskile**

Multinational enterprises (MNEs) are abandoning their traditional organizational structures in favour of arrangements organized by economic functions rather than by legal entity. This article presents a comprehensive analysis of such an arrangement where an entrepreneurial entity in a lower-tax jurisdiction would oversee the development, production, and sale of goods in Canada.

Part 2 of this two-part article begins with a discussion of how use of the Internet will alter the MNE's distribution practices, with particular attention to the effect on its Canadian subsidiary and whether distribution activities over the Internet will create a taxable presence for the entrepreneur in Canada. Part 2 then discusses the provision of services that are associated with the distribution and maintenance of goods sold to Canadian customers and considers how the entrepreneur is affected if it performs the services itself or subcontracts this role to the Canadian subsidiary. Under the new business model, these services would also include manufacturing "services," and part 2 of this article continues with a detailed discussion of the alternatives that the entrepreneur might use to outsource manufacturing "services" to a Canadian subsidiary of the MNE. The discussion considers the Canadian permanent establishment risk to the entrepreneur, the need for a comprehensive transfer-pricing and commodity tax strategy, and the importance of the controlled foreign corporation rules in the MNE's home country. Part 2 concludes with a discussion of the Canadian tax implications to the MNE if the entrepreneur conducts procurement activities on behalf of other members of the group. ***Keywords:** Organizational change;*

* Of PricewaterhouseCoopers, LLP, Toronto. We would like to thank several people for helping us with this article. We are indebted to Kara Ann Selby and Nancy Kwun for their invaluable research assistance. We have been fortunate in receiving valuable comments on earlier drafts of the article from several colleagues, including Chantal Hebert, Ken Griffin, and Pierre Bourgeois. Finally, Alan Davis gave us a great many valuable editorial suggestions. Any omissions or errors are solely our own.

multinationals; manufacturing; purchasing; transfer pricing; permanent establishment; commodity taxes.