
CORPORATE TAX PLANNING

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AN OVERVIEW OF DOMESTICATION TRANSACTIONS IN THE INSURANCE INDUSTRY

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The transfer of an insurance business is subject to a variety of special rules contained in the Income Tax Act. Subsections 138(11.5) and (11.94) govern the tax-deferred transfer of an insurance business by a non-resident and a Canadian-resident insurer, respectively. Subsection 138(11.92), on the other hand, provides rules for the transfer of an insurance business on a fully taxable basis.

This article will describe “domestication transactions” involving the transfer of an insurance business and will review the application of subsection 138(11.5) to such transactions. The article will also discuss some of the regulatory issues that arise in the context of domestication transactions. Finally, the article will provide an analysis and discussion of the various tax provisions and illustrate the post-transaction effects of a completed domestication transaction.

KEYWORDS: OBLIGATIONS ■ TRANSFERS ■ RESERVES ■ BRANCHES ■ DESIGNATED ■ REINSURANCE

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