
PERSONAL TAX PLANNING

Co-Editors: P.E. Schusheim* and Gena Katz**

CANADA'S JURISDICTION TO TAX: RESIDENCY AND THE THOMSON DECISION 60 YEARS LATER

*Paul Lefebvre****

Canadian residents who leave Canada and earn employment income while abroad are becoming more aware of the potential financial advantages of being considered a non-resident of Canada for tax purposes. On the other hand, the Canada Revenue Agency (CRA) is more diligent than ever in its attempts to protect the Canadian tax base and is reluctant to consider individuals who leave Canada to be non-residents. As a result, many taxpayers living and working outside Canada have been denied non-resident tax treatment by the CRA.

This article examines the residency basis for the taxation of individuals under the Income Tax Act, reviews the CRA's position on the determination of residence in Canada, and discusses the relevant case law.

KEYWORDS: RESIDENCY ■ JURISDICTION ■ TAXATION ■ THOMSON ■ SOJOURN ■ ORDINARILY RESIDENT

* Of Couzin Taylor LLP and Ernst & Young L.P., Toronto.

** Of Ernst & Young LLP, Toronto

*** Of Weaver Simmons LLP, Sudbury; former professor of international tax at the University of Ottawa.