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SNOWBIRD WOES

Canadian residents who spend several months a year in the United States may have to file a statement with the US tax authority to avoid US taxation even if they do not earn any income. A Canadian resident is determined to be a resident for US tax purposes if he meets the "substantial presence" test. To avoid the US residence status, the Canadian resident has two options. The option chosen will depend on each individual's personal situation. Not all taxpayers will have the option of filing either form.

Under the first option, to qualify for the "tax home" and "closer connection" exception, the Canadian resident would file a statement with the US tax authority (on a timely basis) stating the facts that support this exception. Those facts would include matters such as the number of

days spent in the US, where the individual maintains his home, where his family resides, and other such information. Once the statement is filed, the individual will be treated as a non-resident for all purposes of US taxation. If the statement is not filed on time, the Canadian resident may opt for the second option.

Under the second option, where a dual resident wishes to claim to be a Canadian resident under the Canada-US Tax Treaty, the person is required to file a US non-resident income tax return to which a statement is attached to indicate that the individual is claiming Treaty benefits. It should be noted that a dual resident who claims treaty protection will continue to be treated as a US resident for other purposes of the US Tax Code.

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CHANGES TO CANADIAN IMMIGRATION POLICY

Canada wishes to attract high quality individuals.

Effective August 9, 1993, Phase II of the Bill C86 Regulations came into effect. The changes affect "independent" applicants who are less educated and have difficulties in communicating in English or French.

Independent applicants are assessed based on education, abilities in the official languages, specific vocational preparation, working experience, occupational demand, demographic factors, personal suitability, relatives in Canada, and arranged employment. A minimum of 70 points is needed to pass.

Previously, educational points were assessed based on the number of years of education completed. The maximum attainable points was 12. The new system is quite a complicated one. It differentiates the types of diploma. For example, a trade or occupational certification may be entitled to five, 10 or 13 points. Hong Kong Form 5 graduates may be entitled up to 10 points. A Form 7 graduate may be entitled to up to 13 points and a university graduate may be entitled up to a maximum of 16 points.

Under the old regulations, in terms of abilities in the official languages, points were granted to applicants who could speak, read or write English or French.

However, the new regulation would only grant points to applicants who can speak, read or write the languages well or fluently.

These changes will not be applied retroactively. Therefore they do not affect applications filed prior to August 9, 1993.

On August 23, 1993 there are further amendments to the occupational Demand List. A total of 494 occupations has been added on to the list. Currently more than 2,400 occupations are eligible to apply under the independent category.

ALBERT TAM
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PHASED PROGRAMME FOR REGISTERING HONG KONG BTDC CITIZENS AS BRITISH NATIONALS (OVERSEAS)

As almost everyone is aware, China will resume sovereignty over Hong Kong July 1, 1997. At that time Hong Kong will cease to be a British Dependent Territory. As a result, those people who are British Dependent Territory citizens will cease to be such.

Pursuant to the terms of the Joint Declaration, Britain and China agreed that Britain could offer the Hong Kong British Dependent Territory citizens an alternative travel document which would continue to be valid beyond 1997. This travel document is the British National (Overseas) passport. Regulations for the issuance of these passports have now been published.

To enable an orderly flow of applicants, the Hong Kong government is providing for the issuance of British National (Overseas) passports in phases. Essentially the population is divided into age groups, and each group is designated a period of approximately five months between now and July 1, 1997 within which to apply for the passport. Applications after these times will not be permitted, in the absence of "special circumstance." Further information can be obtained from the Hong Kong Immigration Department. ♦

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