

Recommendations

The Committee approves this proposal provided that the intent in 1.46 is implemented. We assume this means that recipients of Canadian pensions living in non-treaty countries would be permitted to elect to be taxed as if they were still resident in Canada. The Committee also assumes that the recipient of a pension would be subject to a 15% withholding tax if he resided in a treaty country, unless the treaty provided (as some treaties do) that pensions be taxed in the country of residence. A continuation of such treaty provisions would in our view be appropriate.

NON-RESIDENT OWNED INVESTMENT CORPORATIONS (N.R.O.)

*White Paper Proposal***6.40**

Now taxed under section 70 of the *Income Tax Act* at 15%, they would be subject to an increased tax "to match the rate of the non-resident withholding tax."

Comments

As we understand the historical evolution of the N.R.O., it was designed to permit foreign investors in Canada to use a Canadian corporation to hold their investments and yet be in the same position as if they made their investments directly. In line with the concept the "N.R.O" is taxed at a rate equivalent to the Canadian rate of withholding tax, now 15%. This arrangement is convenient for foreigners and serves to facilitate, if not encourage, the flow of foreign capital into Canada. If such be the case we are puzzled by the proposal in paragraph 6.40 of the White Paper. Although the paragraph in question is somewhat ambiguous, we understand that the proposal contemplates raising the N.R.O. rate from 15% to 25%, which is the general "rate of non-resident withholding tax".

We believe that the NRO has served and can continue to serve a useful function within our tax system.

Recommendation

Therefore, we recommend that to the extent possible the N.R.O. be treated as a non-resident for all purposes, including tax on capital gains. In particular we recommend that the rate of tax applicable to the ordinary income of an N.R.O. be variable, depending on the applicable rate of withholding tax of the beneficial owners of the N.R.O. shares, i.e. 15% where they are residents of treaty countries, and 25% otherwise.

We recognize that this recommendation raises several problems in terms of implementation. For example, rules would have to be developed to cope with the following problems;