Canadian and U.S. corporations engaged in cross-border operations, including financings, acquisitions and divestitures, face unique and complex tax issues. To ensure dealings are structured to maximize tax efficiencies and minimize tax liabilities, businesses must be aware of and comply with all relevant tax legislation and regulations on both sides of the border. With today’s climate of increased scrutiny from both tax authorities and the public, the potential reputational and financial impacts of non-compliance cannot be underestimated.

Perhaps most imperative, however, is the need for strategic, sophisticated and integrated advice that takes into account U.S. federal and state taxation laws and how they interact with Canadian tax planning strategies and guidelines. Ultimately, it’s critical that the corporation obtains reliable and consistent guidance that results in the business reducing its tax burden, taking advantage of available tax incentives and refunds, and repatriating its profits at a manageable tax cost.

Clients involved in cross-border business activities benefit most from tax advisors who can reconcile the differences between Canadian and U.S. laws and deliver integrated tax planning guidance on developing innovative cross-border acquisition, operating and exit structures. Osler’s taxation practice group handles a significant amount of cross-border activity in key areas such as emerging companies (financings and acquisitions), cross-border tax planning, Canadian pension funds investing in U.S. assets, transactional insurance matters and mid-market cross-border M&A. This experience enables Osler to provide comprehensive guidance; clients can obtain all of their business-critical advice from a single firm – an efficient and cost-effective solution.

In particular, the lawyers in our innovative and creative tax advisory practice

- provide Canadian clients with advice on U.S. federal income tax treatment of cross-border and domestic transactions and multinationals. We advise on structuring and operating transactions, including M&A, financings, restructurings, public company stock acquisitions, joint ventures, project financings, cross-border security issuances, inbound and outbound securities, real estate and private equity partnerships, as well as the tax-efficient repatriation of profits

- assist clients with inbound and outbound tax planning considerations, including treaty-based planning,
international joint ventures, permanent establishment considerations and the development of innovative cross-border structures

- possess particular expertise advising Canadian companies with U.S. operations on all aspects of the Foreign Account Tax Compliance Act (FATCA), the Canada-U.S. intergovernmental agreement (IGA), the overall effect of FATCA on Canada and the interaction of the IGA and Canada’s Income Tax Act. In addition, we offer direction on FATCA considerations that investment entities, including pension plans, care about and advise on the applicability and consequences of the full spectrum of relevant U.S. tax codes and legislation

- specialize in the development and implementation of customized tax-efficient cross-border financing arrangements

REPRESENTATIVE WORK

Osler has provided cross-border taxation advice to both Canadian and U.S. corporations from a broad range of sectors, including energy, telecommunications, manufacturing, private equity, big tech, financial institutions and pension funds.

The Canadian corporate clients our lawyers have represented include

- large, public issuers headquartered in Canada who are doing business in the United States, have significant U.S. assets, are engaged in U.S.-based joint ventures and/or are making significant investments in the United States

- Canadian clients of all sizes on the acquisition/disposition of U.S. targets, and on U.S. debt and equity financings (i.e., emerging, mid-market, and large public and private companies)

- Canadian governmental and private pension funds in structuring and negotiating their investments (e.g., hedge funds, private equity funds and other private investment vehicles), including designing co-investments and direct investment structures in the United States and globally

- private equity fund sponsors on the U.S. tax aspects of fund formation, management and operation

In addition, we have acted on behalf of U.S. clients acquiring or disposing of Canadian targets as well as U.S.-based clients in need of domestic tax expertise regarding spin-offs, tax-free and taxable reorganizations and acquisitions, and the structuring, operating and unwinding of joint venture arrangements.

TAXATION

- Tax: M&A, Financings, Corporate Reorganizations and Restructurings
- Tax Controversy & Litigation
- Indirect Tax
- Tax Advisory Services
- Transfer Pricing
RELATED EXPERTISE

- U.S. Cross-Border Legal Services

DEALS & CASES

- Morgan Stanley in its acquisition of Solium Capital for $1.1 billion
- ClearBanc in its US$70 million in Seed and Series A financing
- Veresen Inc. in its $9.7 billion arrangement agreement with Pembina Pipeline Corporation
- Whistler Blackcomb Holdings Inc. in its $1.4 billion acquisition by Vail Resorts
- China Molybdenum in its US$2.65 billion acquisition of Freeport-McMoRan’s indirect 56% interest in the Tenke Fungurume copper-cobalt mine
- Emera Inc. in its US$10.4 billion acquisition of TECO Energy Inc. and $1.9 billion Bought Deal Offering of Convertible Debentures
- China Molybdenum in its US$1.5 billion acquisition of Anglo American’s Brazilian niobium and phosphates businesses
- Mitel in its proposed $1.96 billion acquisition of Polycom
- Torstar Corporation in its $200 million acquisition of an interest in VerticalScope Holdings Inc.
- Robert Mandel and Ingersoll Tillage Group, on ONCAP’s significant investment in ITG
- Pure Energies Group Inc., in relation to its sale to NRG Energy, Inc., a company listed on the New York Stock Exchange with a market capitalization of approximately $10 billion.
- Affinirium Pharmaceuticals in connection with its sale to Debiopharm.
- Chemtrade Logistics Income Fund in its US$860 million proposed acquisition of General Chemical Holding Company. Osler New York and Toronto offices are involved in this transaction.

INDUSTRY RECOGNITION

- **International Tax Review**
  - International Tax Review: Americas Tax Awards: Osler wins Canada Tax Court Firm of the Year Award
PREVIOUS EVENTS

- U.S. Tax Reform - One Year Later - Where Are We?  
  Toronto
- U.S. Tax Reform, One Year Later - Where Are We?  
  Calgary
- The Proposed “BEAT” Regulations: What Canadians need to know
- Crash course on U.S. tax reform for Canadians  
  Calgary
- Crash course on U.S. tax reform for Canadians  
  Toronto
- TEI 72nd Annual Conference - Osler Monday Night Cocktail Reception  
  Toronto
- TEI 72nd Annual Conference TEI #AC17  
  Toronto

LATEST RESOURCES

- "Canadian government temporarily extends national security review timelines", Update: Aug 10, 2020
- "IRS says USMCA = NAFTA for tax treaty purposes", Update: May 21, 2020
"Litigation in the Tax Court post pandemic", Update: May 19, 2020

"Final U.S. tax regulations transform cross-border financing", Update: Apr 13, 2020

"Congress Passes Massive $2T Stimulus Package – What Canadian Businesses Need to Know about Tax Relief in the CARES Act", Update: Mar 30, 2020


"Canada ratifies CUSMA: Tax implications ", Update: Mar 19, 2020

"B.C. announces newly extended registration requirements for its provincial sales tax", Update: Mar 5, 2020

"OECD provides additional detail on Pillar One proposal in update on international tax reform – Seeking consensus-based solution in 2020", Update: Feb 3, 2020

"Should Canadian entrepreneurs incorporate in the United States? ", Update: Jan 22, 2020

"International tax: A year of transition", Update: Dec 13, 2019

"Osler submission to OECD advocates for narrow application of Global Anti-Base Erosion Proposal ", Update: Dec 3, 2019

"International Chamber of Commerce releases 2020 update to its standardized international trade terms", Update: Nov 27, 2019


"OECD proposes significant international tax changes that will impact multinationals", Update: Oct 9, 2019

"Multilateral Instrument (MLI) will enter into force for Canada on December 1, 2019", Update: Aug 29, 2019

"Impact of recent international tax developments on Canada", Update: Jun 24, 2019

"Canadian government introduces tax legislation applying to employee stock options granted on or after January 1, 2020", Update: Jun 21, 2019

"How new 897(l) regulations provide clarity to Canadian pension funds", Update: Jun 12, 2019

"Québec Minister of Finance introduces additional measures to further counter aggressive tax planning", Update: May 29, 2019

"Update on implementation of the Multilateral Instrument in Canada", Update: Apr 23, 2019

"Canada proposes changes to withholding tax on dividend equivalent payments", Update: Apr 12, 2019

"Federal Court of Appeal holds Canada Revenue Agency does not have the power to compel oral interviews during audit", Update: Apr 4, 2019

"Federal budget briefing 2019", Update: Mar 19, 2019
"Osler submission to OECD on Public Consultation Document Addressing the Tax Challenges of the Digitalisation of the Economy", Update: Mar 7, 2019

"From transfer pricing to tax treaties: Canadian cross-border tax update", Update: Dec 18, 2018

"The slow burn of U.S. tax reform", Podcast: Dec 18, 2018

"Canada tables NWMM to ratify MLI; Updates MLI reservations", Update: May 29, 2018

"The Cross-Border Quarterly Report - Q2 2018", Update: April 2018

"Federal Budget Briefing 2018", Update: Feb 27, 2018

"Canada begins ratification process for multilateral tax convention to implement BEPS", Update: Feb 7, 2018

"U.S. tax reform for Canadians: The Tax Cuts and Jobs Act of 2017 (Webinar)", Webinar: Jan 9, 2018

"The brave new (tax) world: What Canadians should know about U.S. tax reform ", Update: Jan 5, 2018

"The Cross-Border Quarterly Report - Q1 2018", Update: January 2018

"CRA releases new guidelines for GST voluntary disclosures", Update: Dec 20, 2017


"New PPT rule in the OECD's Multilateral Instrument to displace Canadian GAAR?", Update: Nov 27, 2017

"U.S. tax reform for busy Canadians (Part 2 – Senate Update)", Update: Nov 15, 2017

"U.S. tax reform for busy Canadians", Update: Nov 6, 2017

"Canadian government eliminates facilitation payments exclusion in the Corruption of Foreign Public Officials Act", Update: Oct 30, 2017

"Federal Court of Appeal’s Univar decision provides guidance on how to apply the GAAR ", Update: Oct 25, 2017


"An “America First” tax reform: Potential impact on Canadian companies", Update: Sep 28, 2017

"R.I.P. border adjustment tax: Canadian implications", Update: July 28, 2017

"U.S. tax changes loom large over cross-border deals", Update: July 26, 2017

"U.S. tax reform: Key signals to watch for", Update: July 26, 2017


"New world for leveraged U.S. real estate partnerships", Update: Apr 6, 2017
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- "The U.S. "Big Border Tax": A primer for Canadians", Update: Feb 16, 2017