

## Other Matters

### Investment Canada Act

The Investment Canada Act requires non-residents to obtain approval for certain business ventures in Canada. Business ventures which are subject to this scrutiny are acquisitions of businesses and the commencement of new enterprises.

Where the foreign investment creates a new Canadian business of any size, or involves the direct acquisition of a Canadian business with a book value of gross assets under \$5 million, or involves indirect acquisition of such a business under \$50 million, only a brief information statement is required, within 30 days. Larger acquisitions and investments in Canadian cultural industries involve a more significant review procedure, commencing 30 days before the acquisition or investment.

43

### Filing Requirements

As noted previously, tax laws require non-residents to notify the tax authorities prior to selling Taxable Canadian Property to anyone. In addition, the vendor must remit 33 1/3% of the estimated capital gain as well as the estimated federal tax on any recapture upon making this declaration. This may be refunded at a later date when filing a Canadian tax return.

Canadian income tax returns must be filed by corporations within six months of their year-end date and by individuals on or before April 30 of the year following their taxable calendar year. If the individual is carrying on business, the filing deadline is extended to June 15. Tax returns for trusts and estates are due within 90 days of their year-end date. A non-resident electing to file a return for rental income (see section entitled **Rental Properties** in the chapter on **Investing in Real Estate**) has until six months after the end of the taxation year. A non-resident corporation carrying on business in Canada without a permanent establishment in Canada, and therefore not taxable in Canada due to the provisions of a bilateral tax treaty, is required to file a return with the Canada Customs and Revenue Agency within six months of their year end to report information concerning claims for treaty-based exemptions.

For taxation years ending after September 13, 1988, corporations are required to report to the Canada Customs and Revenue Agency details of transactions with non-arm's length non-

residents. The Canada Customs and Revenue Agency prescribed Form T106 must be filed by corporations within six months of their year-end date. Whether a taxpayer and a non-resident are non-arm's length is a question of fact. Effective for taxation years beginning after 1998, taxpayers must have contemporaneous documentation available at the filing due date of Form T106 with respect to the transactions reported on this form, or significant penalties could be applied.

Also, investments made by Canadian residents outside Canada are required to be reported to the Canada Customs and Revenue Agency beginning with the 1996 taxation year. Exemptions apply for smaller investments. This could affect German investors using a Canadian corporation. For example, if the Canadian corporation invested in shares of a U.S. corporation, the investment may be reportable depending on its size. The form to be prepared will depend on the nature of the investment.