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EXPLOITING INTELLECTUAL PROPERTY: REVISITING THE INVESTMENT BUSINESS CONCEPT

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Canadian taxpayers with international commercial operations continue to transform the way in which they conduct business, by exploiting the e-business potential of computer and communications technology. Increasingly, they are moving away from the traditional multinational business model, based on physically separate units operating within jurisdictional boundaries, to globally integrated enterprises that effectively function in a world without borders. For many global business enterprises, the market value of the business is closely linked to the high value attributed to its intellectual property assets. However, under Canada’s foreign affiliate tax regime, income derived from the exploitation of these valuable assets could potentially be characterized as foreign accrual property income (FAPI) if earned by a foreign affiliate of a Canadian taxpayer. In this article, the author looks at selected technical issues and recent developments associated with the definition of “investment business” for purposes of the FAPI rules.

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