TAX CONSIDERATIONS OF DOING BUSINESS IN CANADA

© 2018 RSM US LLP. All Rights Reserved.

RSM

RSM overview

Delivering the power of being understood to our clients, colleagues and communities through world-class audit, tax and consulting services tailored to meet the unique needs of middle market businesses.

- Over 43,000 people in 120 countries
- $5.1 billion (USD) in worldwide fee revenues
- 90+ offices and more than 10,000 people across the U.S. and Canada

* RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party. Visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International.

© 2018 RSM US LLP. All Rights Reserved.

RSM

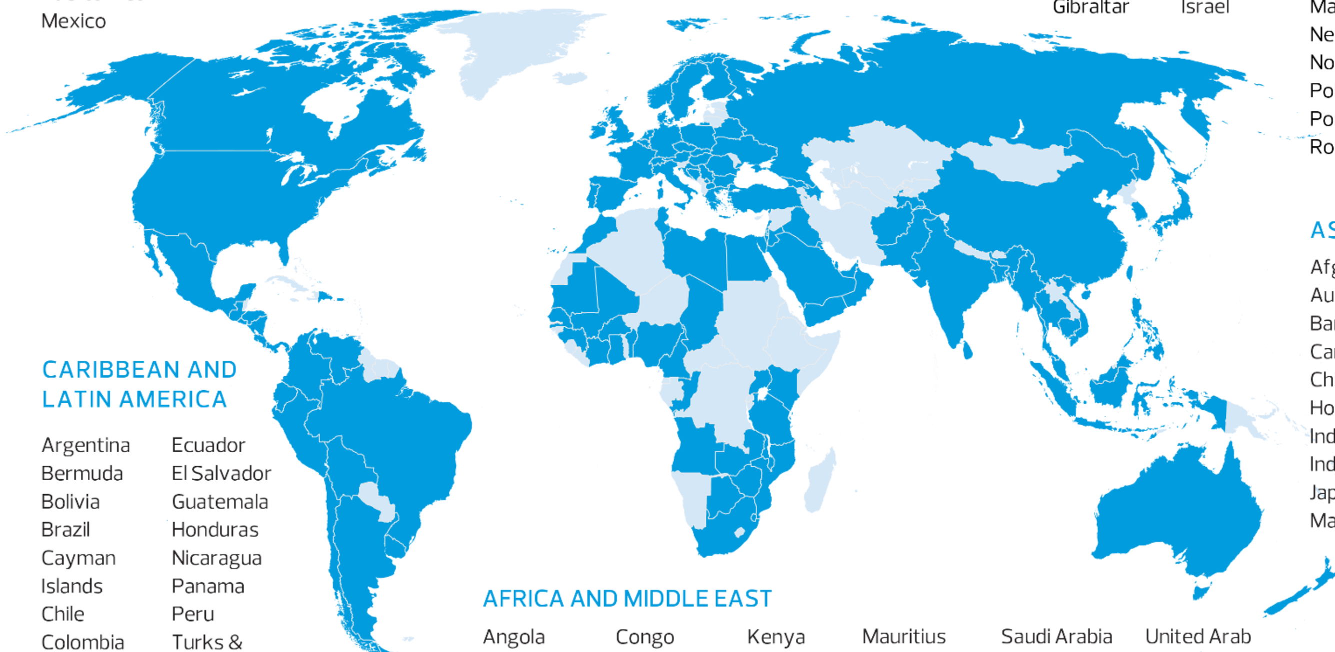
RSM International locations

NORTH AMERICA

Canada
United States
Puerto Rico
Mexico

EUROPE

Andorra
Austria
Azerbaijan
Belarus
Belgium
Bosnia and Herzegovina
Bulgaria
Channel Islands
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Georgia
Germany
Gibraltar
Greece
Hungary
Ireland
Isle of Man
Israel
Italy
Kosovo
Luxembourg
Macedonia
Malta
Netherlands
Norway
Poland
Portugal
Romania
Russia
Serbia
Slovakia
Spain
Sweden
Switzerland
Tajikistan
Turkey
Ukraine
United Kingdom



ASIA PACIFIC

Afghanistan
Australia
Bangladesh
Cambodia
China
Hong Kong
India
Indonesia
Japan
Malaysia
Myanmar
New Zealand
Pakistan
Philippines
Singapore
South Korea
Sri Lanka
Taiwan
Thailand
Vietnam

CARIBBEAN AND LATIN AMERICA

Argentina
Bermuda
Bolivia
Brazil
Cayman Islands
Chile
Colombia
Costa Rica
Dominican Republic
Ecuador
El Salvador
Guatemala
Honduras
Nicaragua
Panama
Peru
Turks & Caicos
Uruguay
Venezuela

AFRICA AND MIDDLE EAST

Angola
Bahrain
Benin
Botswana
Burkina Faso
Cameroon
Chad
Congo
Egypt
Ghana
Guinea
Iraq
Ivory Coast
Jordan
Kenya
Kuwait
Lebanon
Libya
Malawi
Mali
Mauritania
Mauritius
Morocco
Mozambique
Nigeria
Oman
Palestine
Qatar
Saudi Arabia
Senegal
South Africa
Swaziland
Tanzania
Tunisia
Uganda
United Arab Emirates
Yemen
Zambia
Zimbabwe

** RSM US LLP is the U.S. member firm of RSM International*

As of Jan. 2018

© 2018 RSM US LLP. All Rights Reserved.

Today’s presenter

Erika Stefanski

Senior Director

- 10+ years with RSM’s international tax services practice
- Assists US clients with global corporate income tax planning and compliance, including Canadian corporate taxation

© 2018 RSM US LLP. All Rights Reserved.

Meaning of ‘carrying on business’

- ‘Carrying on business’ is defined by the Canadian Income Tax Act
- Definition is fairly broad
- Includes normal business activities such as producing, growing, manufacturing, constructing fabricating and packing
- Includes the solicitation of orders or offering anything for sale in Canada through an agent, whether the contract is completed inside or outside Canada
- Includes providing services in Canada
- Nonresidents carrying on business in Canada are subject to income tax on their Canadian profits, unless the U.S./Canada income tax treaty provides relief

© 2018 RSM US LLP. All Rights Reserved.

RSM

What constitutes a permanent establishment (PE)?

- As long as you avoid creating a PE as defined in the U.S./Canada income tax treaty, Canada will not tax profits from Canadian business activities
- A PE is a fixed place of business through which business is wholly or partly carried on
- Warehouse used only for purposes of storage, display or delivery of goods is exempted
- Building site, construction or installation projects lasting more than 12 months constitutes a PE
- An agent (other than independent agent) who has and habitually exercises the authority to conclude contracts causes a PE

© 2018 RSM US LLP. All Rights Reserved.

RSM

Deemed PE for service providers

- Providing services causes a PE if services are performed by an individual present for 183 days or more in any 12-month period and more than 50 percent of business revenue is derived from the services provided
- Providing services also causes a PE if they are provided for 183 days or more in any 12-month period with respect to the same or connected project

© 2018 RSM US LLP. All Rights Reserved.

RSM

Why file a treaty-based return?

- File a treaty-based return in order to claim the benefits of the treaty
- Filing a treaty-based return avoids a maximum penalty of $2,500 per year
- Claim a refund of Regulation 105 withholding
- Register for a Business Number by filing Form RC-1

© 2018 RSM US LLP. All Rights Reserved.

RSM

Withholding on payments made to US subcontractors – Canadian withholding tax

- 15 percent withholding tax applies to payments for services rendered in Canada by nonresidents (Reg. 105)
- If no PE, the nonresident can request a refund by filing a T2 treaty return
- A waiver from withholding is available

© 2018 RSM US LLP. All Rights Reserved.

Withholding on compensation paid to US residents – Canadian payroll tax

- Non-resident employees that are working in Canada are subject to tax in Canada, unless exempt under a tax treaty
- Employers are required to withhold and remit tax, unless a tax waiver is in effect (Reg. 102)
- Exceptions to withholding if requirements are met
  - Nonresident employer certification
  - Regulation 102 waiver

© 2018 RSM US LLP. All Rights Reserved.

Goods and Services Taxes/Harmonized Sales Tax basic concepts

- What is GST/HST?
  - Value-added tax
  - GST – 5 percent federal tax
  - HST – where applicable, provincial component added to GST
  - Levied on taxable supplies made in Canada
- In general, non-residents who “carry on business” (for GST/HST purposes) must register
- Carrying on business is not defined for GST/HST purposes and the threshold can be much lower
- Even if not required, non-residents may want to register in order to claim input tax credits (ITC)
  - ITC is a refund of GST/HST incurred

RSM

© 2018 RSM US LLP. All Rights Reserved.

THE POWER OF BEING UNDERSTOOD

AUDIT | TAX | CONSULTING

RSM

© 2018 RSM US LLP. All Rights Reserved.

Contact Information

Erika Stefanski

Senior Director – International Tax Services

RSM US LLP
20 N. Martingale Rd., Suite 500, Schaumburg, IL 60173
D: 847.413.4054 **F:** 847.517.7067 I
E:erika.stefanski@rsmus.com

© 2018 RSM US LLP. All Rights Reserved.

RSM US LLP

+1 800 274 3978
www.rsmus.com

This document contains general information, may be based on authorities that are subject to change, and is not a substitute for professional advice or services. This document does not constitute audit, tax, consulting, business, financial, investment, legal or other professional advice, and you should consult a qualified professional advisor before taking any action based on the information herein. RSM US LLP, its affiliates and related entities are not responsible for any loss resulting from or relating to reliance on this document by any person. Internal Revenue Service rules require us to inform you that this communication may be deemed a solicitation to provide tax services. This communication is being sent to individuals who have subscribed to receive it or who we believe would have an interest in the topics discussed.

RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party. Visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International.

RSM® and the RSM logo are registered trademarks of RSM International Association. *The power of being understood*® is a registered trademark of RSM US LLP.

© 2018 RSM US LLP. All Rights Reserved.

RSM