



Which partnerships must file information returns in 2011?



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Partnerships in and of themselves are not required to file tax returns because they are not

taxpayers or taxable entities. A partnership's income is taxable in the hands of the partners, who are required to file tax returns. However, Income Tax Regulation 229 requires all partnerships to file an annual "information return" (Canada Revenue Agency ("CRA") Form T5013). Until January 1, 2011, by CRA administrative policy, partnerships with fewer than six partners did not have to file partnership information returns unless one of the partners was another partnership.

Accountants and other advisors to partnerships should note the changes to filing requirements for partnership information returns that came into effect on January 1, 2011 for partnerships with fiscal periods ending on or after January 1, 2011.

The new administrative policies require partnerships that carry on business in Canada, or Canadian partnerships with Canadian or foreign operations/investments, to file partnership information returns annually if:

1. at the end of the fiscal period, the partnership has "an absolute value of revenues plus an absolute value of

expenses" of more than \$2 million, or has more than \$5 million in "assets"; or
2. at any time during the fiscal period, the partnership:

- is a tiered partnership (i.e., has another partnership as a partner or is itself a partner in another partnership),
- has a corporation or a trust as a partner,
- invested in flow-through shares of a principal business corporation that incurred Canadian resource expenses and renounced those expenses to the partnership, or
- is requested to file a return by the Minister of National Revenue.

"An absolute value of revenues plus an absolute value of expenses" means the sum of total revenues and total expenses from the partnership's financial statements. For example, a partnership with revenues of \$1.5 million and expenses of \$1 million would have an absolute value of revenues plus an absolute value of expenses of \$2.5 million (\$1.5 million plus \$1 million) and would therefore have to file a return.

"Assets" means the cost of all tangible and intangible assets of the partnership, without deducting any depreciation or amortization.

The CRA has three years from the date of assessment of the partnership return to reassess the partnership, assuming there has been no misrepresentation attributable to

neglect, carelessness or wilful default. Since there is no such time limit on reassessment of a partnership that does not file an information return, an exempt partnership may wish to file a partnership return to protect itself from this potentially unlimited reassessment period.

Torkin Manes' Tax, Business Law and Real Estate Groups work together to provide comprehensive tax and corporate planning for their clients. They have extensive experience structuring partnership vehicles for clients in the real estate industry. Torkin Manes' Tax, Business Law and Real Estate Groups have a significant practice working with other professional advisors such as financial planners and accountants to execute their clients' tax and business planning.

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