

## Foreign Income Verification Statement (T1135) Disclosure

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Over the last several years the Canada Revenue Agency (CRA) has increased its focus on taxpayers with undisclosed income from foreign accounts and assets, as well as those who have failed to properly report ownership of foreign accounts and assets on form **T1135 – Foreign Income Verification Statement<sup>1</sup>**, when required to do so. This form was completely redesigned for tax year 2013 and additional changes have been made over the last 2 years. Prior to these changes, the form was fairly straightforward. The changes for 2014 require taxpayers to report detailed cost information about their foreign accounts and assets, detailed fair market value information for foreign assets held in certain Canadian accounts and the about any income/losses in relation to these accounts and assets and details in relation to any income generated from the property. Changes for 2015 provide a simplified procedure for those who are required to file the form, but own assets which cost less than \$250,000CAD. Failing to file this form when required can result in large and punitive penalty assessments and an increase to the number of years that CRA may examine your tax returns. **Your American Expat Tax Services (AET) cross border tax specialist will be able to help you determine your obligations and assist with completing and/or filing the required form(s).**

### **Who Must File Form T1135?**

**ALL** of the following must apply:

- The filer is a Canadian Resident (individual, corporation, trust or certain partnerships);
- The Canadian resident owns **specified foreign property**; and
- The aggregate cost of all specified foreign property owned exceeded \$100,000, in Canadian dollars, at any time during the reported calendar year.

### **What is Specified Foreign Property?**

Examples of specified foreign property include but are not limited to:

- Funds or intangible property (patents, copyrights, etc.) held outside of Canada,
- Tangible property held outside of Canada,
- Shares of the capital stock of a non-resident corporation,
- Shares of Canadian corporations that are held outside of Canada,
- An interest in non-resident trust,
- An interest in a partnership that owns specified foreign property (unless the partnership is required to file form T1135),
- A property that can be converted/exchanged for or provides a right to acquire specified foreign property,
- A debt owed by a non-resident (includes government and corporate bonds, debentures, mortgages and notes receivable),
- An interest in a foreign insurance policy, and
- Precious metals, gold certificates and futures contracts held outside of Canada.

### **Specified Exempt Foreign Property:**

- A property used or held exclusively in carrying on an active business,
- A share of or indebtedness of a foreign affiliate,
- An interest in certain trusts considered exempt trusts as defined in paragraph (a) or (b) of subsection 233.2(1) such as certain employer sponsored retirement plans, retirement and/or savings plans exempt from tax in the source country, etc.
- A personal-use property as defined in section 54 such as vacation homes, recreational properties, etc.
- An interest in or right to acquire any specified exempt foreign property.

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<sup>1</sup> Form T1135 is only one of four possible forms that may be required to be filed. For additional details, please refer to:

<http://www.cra-arc.gc.ca/tx/nrrsdnts/cmmn/frgn/menu-eng.html>

If you are unsure if any property you own is considered “specified foreign property”, your AET tax specialist can assist.

**When and How:**

Form T1135 **MUST** be filed by the date of the Canadian resident’s income tax return (information return for partnerships). Currently, the form can be e-filed or mailed, separately from any return(s), to:

Ottawa Technology Centre  
Data Assessment and Evaluations Program  
Validation and Verification Section  
Foreign Reporting Returns  
875 Heron Road  
Ottawa ON K1A 1A2

**Penalties:**

**Failure to File:**

- \$25/day, starting at \$100 and up to \$2500.00 (100 days).
- Failure to file due to gross negligence – \$500/month up to 24 months (\$12,000) minus any penalties already levied.
- After 24 months – 5% of the cost of the specified foreign property which resulted in the requirement to file form T1135 (minus any other failure to file penalties already levied)








**False Statements or Omissions:**

- The greater of \$24,000 or 5% of the cost of the specified foreign property that the false statement or omission relates to.

**Voluntary Disclosures:**

There are options available if you were required to file form T1135 but have not, as long as Canada Revenue has not yet requested the information. The Voluntary Disclosures Program (VDP) is available to taxpayers who want to voluntarily come forward and become compliant in their Canadian tax affairs. Details about VDP are found at <http://www.cra-arc.gc.ca/voluntarydisclosures/>. Ask your AET tax specialist how you can benefit from this program.

**Information your tax preparer needs:**

-  Currency/monies – the name of the financial institution, country where located, highest value during the tax year and value on Dec 31 of the tax year
-  Shares in a non-Canadian corporation – name of the corporation, country where located, highest **COST** during the tax year, **COST** on Dec 31 of the tax year
-  Amounts owed to you by a non-resident of Canada – description of the indebtedness, country where located, maximum **COST** during the tax year, **COST** on Dec 31 of the tax year
-  Foreign trusts – name of trust, country where located, highest **COST** during the tax year, **COST** on Dec 31 of the tax year
-  Real Property – description, country where located, highest **COST** during the year, **COST** on Dec 31 of the tax year
-  Other Foreign Property – description, country where located, highest **COST** during the tax year, **COST** on Dec 31 of the tax year
-  Property held in accounts with Canadian brokerages or trust companies (you receive T3s or T5s for these accounts) – name of brokerage/trust company, country where located, highest **FAIR MARKET VALUE (FMV)** during the tax year, **FMV** on Dec 31 of the tax year