

May 1, 2015

# CERTIFIED TRANSLATION: COPY OF ORIGINAL

To: Certain former or current clients of KPMG s.r.l.

**Re: Your participation in a foreign company or a foreign company structure**

Dear Sir or Madam,

The Canada Revenue Agency (the “CRA”) knows that certain former or current clients of KPMG s.r.l. participated in a structure known under the name of “foreign company” or “foreign company structure” (“FCS”) (these participants are designated in this document as “taxpayers”). This participation is of interest to the CRA and a certain number of taxpayer audits have been undertaken as of today.

In order to create certainty with regard to the treatment of the FCS by the CRA, to encourage taxpayers to voluntarily declare to the CRA and to reach a final and complete settlement with regard to the consequences for taxpayers of their participation in the FCS during the 2014 tax year and prior tax years, under the *Income Tax Act* (Canada) (the “Act”), the CRA wishes to present the following offer, pursuant to the Act, to taxpayers who have not communicated with it with regard to their participation in the FCS as of the date indicated on this letter.

Here are the conditions of the offer (the “offer”).

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### **APPLICABLE TAX YEARS**

1. This offer applies only to the 2014 tax year and prior tax years. It does not apply to the 2015 tax year or to any other subsequent tax year.

### **TREATMENT OF THE FCS AND REDUCTION OF INTEREST AND PENALTIES**

1. At the conclusion of each taxpayer audit process described below, the Minister of National Revenue (the “Minister”) shall evaluate the debt of each taxpayer for the applicable tax years in the following way:
  - a. For the purpose of calculating income tax concerning his/her participation in the FCS, the Minister shall treat:
    - i. all the entities of the FCS as a nominee for the taxpayer;
    - ii. the totality of the income or loss, capital gain or capital loss of the entities of the FCS as income or loss, capital gain or capital loss, as the case may be, of the taxpayer;
    - iii. the expenses undertaken by the FCS as expenses undertaken by the taxpayer, when it is a matter of determining whether they are deductible pursuant to the Act;
    - iv. all distributions made by an entity of the FCS to the taxpayer as non-events pursuant to the Act.
  - b. The Minister shall waive interest and penalties as indicated in Appendix A attached, in accordance with subsection 220(3.1) of the Act.

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## **AUDIT PROCESS**

3. The taxpayer shall cooperate with the CRA and, in particular, shall provide or shall cause to be provided all the available information and documents related to his/her participation in the FCS up until 31 December 2014, inclusive, to the extent requested by the CRA.
4. The CRA shall proceed with the audit of the taxpayer with regard to his/her participation in the FCS during the applicable tax years. It is understood that the CRA does not rule out the possibility of undertaking audits at a later date with regard to other issues concerning the taxpayer for the applicable tax years. These other issues or audits shall have no effect on the binding nature of this offer, if it is accepted by the taxpayer in the manner described below.
5. All audits of taxpayers shall be coordinated and undertaken by CRA auditors who are part of the Team Specialized in Offshore Compliance, located in the Vancouver Island Tax Services Office. The CRA Headquarters Offshore Compliance Section shall supervise all taxpayer audits and shall give final approval to the auditor for all assessments or reassessments, depending on the individual case, issued in accordance with this offer. Subject to operational requirements, the resource person at CRA Headquarters will be Ms. Anne Lee.
6. The taxpayer shall have 30 days following the date of an audit proposal letter from CRA related to his/her participation in the FCS to present arguments to the CRA in response to the said audit proposal letter (the “arguments”), subject to the right to request a 30-day extension in accordance with normal CRA practice, or in accordance with what was agreed between the taxpayer and CRA.

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7. The taxpayer can present arguments only with regard to questions on which the taxpayer's right to file an objection or appeal has not been withdrawn, as is allowed for in this offer. The arguments shall be presented to the CRA auditor assigned to the taxpayer's audit and a copy shall be submitted to the Offshore Compliance Section at CRA Headquarters by the auditor.

#### **WAIVER OF CERTAIN RIGHTS TO OBJECTION OR APPEAL**

8. The taxpayer agrees to waive his/her right to file a notice of objection and/or an appeal concerning any assessment or reassessment issued pursuant to this offer, for all the applicable tax years, related to the following:
  - a. the availability of the defence provided for under the Act concerning a reassessment issued beyond the normal period for reassessment;
  - b. the treatment of all the entities of the FCS as a nominee of the taxpayer;
  - c. the treatment of all of the income or loss, capital gain or capital loss of the entities of the FCS as income or loss, capital gain or capital loss, as the case may be, of the taxpayer (the "issues").
9. The taxpayer shall provide CRA with an irrevocable waiver of rights to objection and appeal signed for all the applicable tax years relative to the issues, in a form CRA considers satisfactory, within 30 days following the request for the said waiver by CRA.
10. In accordance with subsections 165(1.2) and 169(2.2) of the Act, filing an objection or appeal for all applicable tax years with regard to the issues shall be prohibited.

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11. It is understood that, notwithstanding paragraphs 8, 9 and 10, the taxpayer shall have the right to file a notice of objection or appeal with regard to issues other than those provided for herein, including the following:
- a. calculation of income or loss, capital gain or capital loss;
  - b. the treatment of a particular element as a current account element or a capital account element;
  - c. the treatment of an expense under the Act.

#### **WAIVER OF OTHER TAX RELIEF FOR TAXPAYERS**

12. The taxpayer agrees to waive his/her rights to any examination of the Minister's decision to waive interest and penalties in accordance with Appendix A in the form of a request for a re-examination of the decision or examination by a tribunal.

#### **ACCEPTANCE OF THE OFFER AND THE PERIOD COVERED BY THE OFFER**

13. This offer shall be open to acceptance by the taxpayer for 90 days following the date of this letter (the "offer period").
14. KPMG s.r.l. can request CRA, on behalf of the taxpayer, to extend the offer period by a maximum period of 30 additional days if there are special attenuating circumstances, including, without restricting the general character of the foregoing, illness or the inability of KPMG to communicate with the taxpayer.
15. The CRA shall answer KPMG's request within two business days, indicating if the offer period has been extended.

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16. The taxpayer shall indicate that he/she accepts the offer by sending the duly signed original of this letter, including his/her complete name, address and telephone number to the CRA at the address below within the offer period, unless it has been extended with the agreement of the CRA, in accordance with paragraphs 14 and 15 above.
17. It is understood that the choice of other taxpayers to accept or refuse this offer in no way affects the validity of this offer for a taxpayer.

### **CONFIDENTIALITY**

18. The taxpayer agrees to ensure the confidentiality of the offer and will not inform any person of the conditions of the offer, except if required to do so by law, apart from professional advisers, for the purpose of the examination of the offer, the reassessments and the related documents issued in accordance with the offer, provided that the said advisors accept being bound by the confidentiality requirement.

### **CONSEQUENCES OF AN INFRACTION**

19. If a taxpayer accepts this offer and he/she later fails to fulfill the conditions of the offer, the Minister can consider that the offer has been terminated in the case of the said taxpayer.

### **ADMISSIBILITY**

20. It is understood that this offer has not been presented to taxpayers who have already communicated to the CRA with regard to their participation in the FCS as of the date of this letter, and that it cannot be accepted by them.

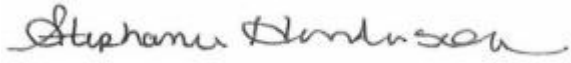
If you are in agreement with the above conditions and you wish to accept this offer, please sign this letter in the presence of a witness and enter your complete name, address and

telephone number in the spaces provided for this purpose below and return it to the

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attention of the undersigned, at the address indicated below, before the expiry of the offer period.

Yours sincerely,



Stephanie Henderson  
Manager, Offshore Compliance Section  
427 Laurier Avenue West  
Enterprise Building, 8<sup>th</sup> floor, room 08-128  
Ottawa (Ontario) K1A 0L5

Attached: Appendix A

I hereby accept the offer as is formulated above.

\_\_\_\_\_  
Taxpayer signature

\_\_\_\_\_  
Date

Please Print:

\_\_\_\_\_  
Complete name of taxpayer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Date

Please Print:



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Name of Witness

Appendix A to the offer letter dated 1 May 2015  
Table of interest and penalties

In the event the taxpayer voluntarily declares in the course of the 2015 calendar year, the adjustments for the different tax years shall be treated in the way presented below<sup>1</sup>.

<b>Tax year</b>	<b>Interest</b>	<b>Penalties</b>
2014	No relief of interest — at the prescribed rates	No penalty regarding the returns <sup>2</sup> Mandatory penalties <sup>3</sup> can be applied, according to the particular situation of the taxpayer
2013	No relief of interest — at the prescribed rates	No penalty
2012	No relief of interest — at the prescribed rates	No penalty
2011	No relief of interest — at the prescribed rates	No penalty
2010	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2009	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2008	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty

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<sup>1</sup> For all taxation years, the interest shall be charged at the prescribed rates from the date of coming into effect of disclosure until date of payment. The date of coming into effect of disclosure is the 90<sup>th</sup> day following the date of the offer letter.

<sup>2</sup> For the application of the offer, the “penalties related to returns” are the penalties assessed under subsections 162(10) and 162(10.1) and of section 163 of the *Income Tax Act*.

<sup>3</sup> For the application of the offer, the “mandatory penalties” are all the penalties other than the penalties related to the returns assessed under the *Income Tax Act*. For example, the penalties assessed for the late production of income tax returns and the failure to pay installments are mandatory penalties.

2007	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2006	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2005	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2004	Prescribed rates less 4% up to the date of coming into effect of disclosure	No penalty
2003	Prescribed rate until 31 December 2003 Total relief of interest from 1 January 2004 up to the date of coming into force of disclosure	No penalty related to returns Mandatory penalties can be applied, depending on the particular situation of the taxpayer
2002	Prescribed rate until 31 December 2003 Total relief of interest from 1 January 2004 up to the date of coming into force of disclosure	No penalty related to returns Mandatory penalties can be applied, depending on the particular situation of the taxpayer
2001	Prescribed rate until 31 December 2003 Total relief of interest from 1 January 2004 up to the date of coming into force of disclosure	No penalty related to returns Mandatory penalties can be applied, depending on the particular situation of the taxpayer
2000	Prescribed rate until 31 December 2003 Total relief of interest from 1 January 2004 up to the date of coming into force of disclosure	No penalty related to returns Mandatory penalties can be applied, depending on the particular situation of the taxpayer

1999	Prescribed rate until 31 December 2003 Total relief of interest from 1 January 2004 up to the date of coming into force of disclosure	No penalty related to returns Mandatory penalties can be applied, depending on the particular situation of the taxpayer
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