



chair **John Chiang**  
member **Jerome E. Horton**  
member **Michael Cohen**

State of California  
**Franchise Tax Board**

12.19.13

Information Letter 2013-02

Denis Stevens  
Deputy Head of Missions  
Embassy of Canada  
501 Pennsylvania Avenue NW  
Washington DC 20001-2114

Subject: California State Income Tax

Dear Mr. Stevens,

Your letter of November 20, 2013, to California State Controller John Chiang has been referred to the Franchise Tax Board. I have been asked to provide the response. This letter is for informational purposes only and may not be considered "written advice from the Board" within the meaning of California Revenue and Taxation Code section 21012.

You have written to seek advice with respect to the state taxation of Canadian citizen employees residing in California. As you provided, Canada and the United States have entered into a tax treaty under which Canadian citizen employees are not taxed by the United States on their earnings from employment with the Government of Canada while employed in the United States.

Article II, Section 2, of the Convention Between The United States Of America and Canada With Respect to Taxes on Income and on Capital (the "Convention") provides:

The existing taxes to which the Convention shall apply are:

- (a) In the case of Canada, the taxes imposed by the Government of Canada under Parts I, XIII and XIV of the Income Tax Act; and
- (b) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code.

Therefore, the Convention does not apply to the State of California and its personal income tax imposed under the California Revenue and Taxation Code (CRTC). However, employees of the Canadian government working here in California are exempt from California income tax pursuant to a provision in the CRTC.

CRTC section 17146 provides that California conforms, i.e., follows, Internal Revenue Code (IRC) section 893, relating to compensation of employees of foreign

governments or international organizations. IRC section 893 provides an exemption from income tax for wages, fees, or salary of any employee of a foreign government or an international organization if certain conditions are met. Since CRTC section 17146 does not modify or alter IRC section 893, if the wages, fees, or salary of an employee of a foreign government are exempt from United States federal income tax by operation of IRC section 893, those sums are also exempt from California personal income tax.

If you have any questions or concerns, please contact me at the above number.

Sincerely,

Natasha Sherwood Page  
Tax Counsel III