

April 12, 2012

Dear Colleagues,

This morning the Supreme Court of Canada released its decision in *Fundy Settlement v. Canada*, 2012 SCC 14. The Court held that the test for the residence of a trust is the same as the common law test for corporations – i.e., where the “central management and control” of the trust is exercised. Although the decision is disappointing for many taxpayers, the law on the point is now clear. In addition, from an international corporate tax perspective, the Court usefully stated (for the first time) that “In general, the central management and control of a corporation will be exercised where its board of directors exercises its responsibilities” (para. 9). Corporate tax directors (and their advisors) should be comforted that the Supreme Court of Canada has expressly reaffirmed this well-accepted principle.

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