



For the Friends and Clients
of Lara Austin of
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Greetings readers

I trust you have been enjoying the bountiful sunshine we have had this summer. You may have noticed an influx of American tourists, particularly in Victoria and Whistler.

Yes, our dollar is low and apparently some are checking out Canada for a possible move (wink wink). The United States of America is one of the very few countries in the world that taxes based on citizenship – NOT residency. When President Obama enacted FATCA in 2010, it unleashed a process whereby all people with U.S. Indicia (evidence of suspected U.S. Person status) must be reported by foreign (non-U.S.) financial institutions around the world. There are approximately 8.7 million Americans living outside of the United States. This issue includes just a few aspects of dual filing considerations, and I am happy to follow up with more information if YOU or someone you know is interested.

Summer is also a time for families to visit. My eldest son just turned 19 and lives in Vancouver. I am over-the-moon-happy when he graces us with his presence! Perhaps you are visiting your adult children, or even better – they are coming here to enjoy the awesome vibe of the Comox Valley. This is a good time to review your Power of Attorney. Just ONE document in a complete estate plan, I would suggest it is THE MOST important,

because A, you are alive when it is implemented and B, if it is implemented due to incapacity (e.g. dementia or temporary sickness) it is usually too late to change your mind if you didn't draw it up correctly or circumstances have changed since you first drafted it. In this issue I included some considerations for the review and potential implementation of the Power of Attorney.

Lastly, I came across a fabulous WEB resource I wanted to share on retirement planning and a tax tip from a client.

This is a great issue to be sharing. You may forward the e-mail if you get that version. If someone you know would like to be on the snail mail list, just give us a call! It is complimentary.

Cheers,

Lara D. Austin

Using a Power of Attorney

What you need to know

Congratulations if you have a Power of Attorney Drawn up that is legally documented! Occasionally people think that the same person who has been named Executor in a Will can also act for you as attorney while you are alive and incapable, or that it is assumed that a spouse can do the job. This would not be the case; only a specific document called a Power of Attorney can be used. Here in B.C., both the person granting the power and the person accepting the power must both sign the document, and it must be appropriately witnessed – each province has slightly different requirements.

Most people file it away and forget about it. It SHOULD be reviewed at least once every three years. Not necessarily by a lawyer or notary – but pulled out and reviewed by the grantor (person who it is for) for any changes.

Here are some reasons for automatic TERMINATION of the authority by the grantor:

1. The grantor dies. (Obviously, now the Executor/Will takes over the affairs and winds up the estate. This could be a different person than the Attorney.)
2. Incapacity of the grantor. Yes, many POA documents are set to EXPIRE exactly when they are needed the most. If they are written with an “enduring clause”, then the document can continue through incapacity. (Important to check!)
3. Bankruptcy. If the Attorney declares bankruptcy, then in most jurisdictions, the POA document is terminated.
4. Marital breakdown. In some jurisdictions this is cause for automatic termination. If you are in the process of separating, updating your POA should be high on your

list of priorities!

5. Resignation of the Attorney. If the grantor is capable, then the Attorney can provide written notice to the grantor. If the grantor is incapable, the Attorney must apply to the courts for the resignation to be valid. This can be a long, arduous job, therefore naming a BACK UP attorney in your document, can minimize this issue.
6. Removal by the “Public Guardian and Trustee”. There could be many reasons that the Public Guardian and Trustee steps in. For more about PGT, see this link: <http://www.trustee.bc.ca/Pages/default.aspx>

You may also want to consider:

- Age, every year you get older...your POA does too!
- Family dynamics - these can change regularly!
- Health and “Busyness” of the of named Attorney (have they had a new baby or started a business?)
- Geographic distance – people move, and this job can be complicated at a distance

Using the POA

When should a POA be enacted? Typically, you keep in your file (or the lawyer keeps in their file) until which time that there is incapacity. You probably don't want too many copies floating around, so stick with two locations maximum until it is needed.

Defining incapacity can be a difficult process:

Typically a financial institution is looking for these red flags, the client is:

- unable to process and understand simple financial concepts related to their account



- is not aware, or does not understand recent financial transactions
- is making decisions that are inconsistent with his or her long term goals
- is refusing to consider investment advice
- displays memory loss (can't recall a discussion from last week)
- displays erratic behavior
- is disoriented, or uncharacteristically unkempt or forgetful

While a POA document can be recorded in a client file, many financial institutions will only ENGAGE a POA with a Letter from a Doctor, declaring Incapacity. In part, this depends on HOW the POA is written. Other transactions such as changing ownership of cars, houses etc may follow different procedures or rules. It is important to realize there is a process for engaging a POA that is set up to protect the clients' interests.

The POA is IN FORCE, now all is good – right?

As demographics are changing, the number of people needing to engage is increasing. With that, is evidence of an increase in fraudulent financial activities.

Professional Investment Advisors have a fiduciary duty to look after the interests of their CLIENT, which is the GRANTOR of the POA. We are constantly on the lookout for:

- Situations where the client's named attorney is not looking out for the best interests of the client
- Clients who have named a POA that is not appropriate (a “new” friend who is not aligned to the client or their family relationships)

- Clients who request a large wire transfer to an individual (perhaps explaining they are a winner of a lottery, or helping a friend)
- Watching for situations where a caretaker or family member is coercing a client to transfer/gift assets to them, under the threat of having the client committed!
- Client is making atypical or unexplained withdrawals that may negatively impact their ongoing financial needs
- Client abruptly changes beneficiary designations
- The client's mailing address is changed to an unfamiliar or unexplained address
- The client is unable to speak to the advisor directly, despite the advisor's attempts to do so
- Client is suddenly isolated from family and friends
- Or the sudden appearance of an individual, relative or not, that is displaying undue influence over the client and their financial affairs

Whether a client has capacity or not, professional advisors are trained to watch for potential fraudulent threats on behalf of our clients. The better we know you (your travel plans, your gifting plans, your trusted family members and friends) the better prepared we can be if a red flag goes up! A lot of what we listen for in our regular client review meetings is YOUR NORMAL!

LARA can help in the following ways:

1. Provide you a complimentary copy of the guide for determining U.S. tax obligations.
2. Connect you with various third party specialist that work with dual filers.
3. Assist with Investment Portfolios specifically designed for dual filers.

Cross border planning - dual filing obligations

Who is a U.S. citizen for the purposes of dual filing obligations?

- Anyone born in the U.S. is **automatically** considered a U.S. citizen.
- There may be people born in the U.S., but have lived elsewhere for most of their lives, who are also considered U.S. citizens.
- The fact that one does not hold a U.S. passport has no bearing on the U.S. citizenship status.
- It is possible to be born in a DIFFERENT country and be considered a U.S. citizen:
 - If both of your parents (married) were born in the U.S., and one of them resided there at one time, then you could be considered a U.S. citizen (different criteria for non-married).
 - If only one parent is a U.S. citizen, then the length of time that he or she resided in the U.S., and depending when he/she was born, you could be considered a U.S. citizen.
- If you are NOT a U.S. citizen, but at some time obtained, and did not formally relinquish (for tax purposes) a U.S. green card, you are taxed in the U.S. in a manner similar to a U.S. citizen.
- If you are unsure, a cross border legal expert can help you determine your status.

What are the filing obligations?

- The Canadian/U.S. Tax Treaty means that most taxes will be paid to the Canadian government (at the regular Canadian tax rate). However some income isn't included in this treaty, such as the passive

investment income in TFSA's (Tax-Free Savings Accounts) and RESPs (Registered Education Savings plans). In addition, U.S. filers must include various specific forms, such as the Report of Foreign Bank and Financial Accounts (FBAR). This is the aggregate value of foreign accounts such as Canadian bank and brokerage accounts, RRSPs and RRIFs, RESPs, LIRAs, LIFS and TFSA's, along with accounts that you have an INDIRECT interest in or signing authority on (this could include Trust and Estate accounts, and signing authority on bank accounts for charities, corporations, sporting groups, church groups or other such organizations).

What are the consequences of not filing?

- Specific forms can carry filing penalties of up to \$10,000 per form for late filing. FBAR forms (described above) are \$10,000 penalty for each account or higher, and possibly civil and criminal penalties for willful failure to file.

What to do NEXT?

- If you have determined you have filing obligations and have not yet filed, start with the RBC Dominion Securities General Guide "U.S. Tax Exposure: Broader than you can Imagine".
- Determine if you want to maintain your citizenship and file annually going forward, or initiate the process for relinquishing your U.S. citizenship. There are financial and non-financial considerations.
- If maintaining your U.S. citizenship and filing, you want to ensure that the type of investments you maintain are suitable for the filing obligations.

Retiring soon?

A new web resource for you!

<https://www.clhia.ca/rs/en/index.html>

Canadians planning to retire within the next year or so now have access to a new, one-stop resource, called **Retiring Soon?**, that will help with answering some of their key questions as they prepare to leave the workforce.

"This is truly a unique and informative resource that aligns with Canada's National Strategy for Financial Literacy," noted Canada's Financial Literacy Leader Jane Rooney. "Employers and advisors alike will also find it helpful as they provide information and advice on retirement to their employees and clients."

Retiring Soon? is a web-based tool, accessible on computers, tablets and smart phones, that centralizes the essential information that near-retirees need to think about and steps they need to take -- things like how to apply for government benefits such as CPP and QPP, converting workplace pensions and personal RRSPs into retirement income, how to organize family and financial documents, the role of financial advisors, links to provincial resources for seniors, and much more. "Our industry welcomes the opportunity to help Canadians succeed in this area and to contribute

to Canada's overall financial literacy objectives," added Mr. Swedlove.

About the CLHIA:

The CLHIA is a voluntary association whose member companies account for 99 per cent of Canada's life and health insurance business. The industry provides a wide range of financial security products such as life insurance, annuities (including RRSPs, RRIFs and pensions) and supplementary health insurance to 28 million Canadians. It also holds close to \$720 billion of assets in Canada and employs about 155,000 Canadians.

Are you a lower income retiree?

You could have a significant investment portfolio, but with strategic tax planning, be considered a lower income retiree. Here is a TIP that a client shared about income tested services:

Your income tested services (like B.C. MSP premiums and Pharmacare) are not always AUTOMATICALLY reduced in a year when your taxable income drops.

Please take the time to review your prior year Tax Return EVERY YEAR and

check against the income limits on both services.

If you see a discrepancy – contact your local ACCESS center or MSP/Pharmacare directly.

For B.C. MSP:

<http://www2.gov.bc.ca/gov/content/health/health-drug-coverage/msp/bc-residents/premiums>

Lower premiums start when your income is less than \$30,000 in 2016 and less than \$42,000 in 2017.

For B.C. Pharmacare refer to online calculator: <https://www.health.gov.bc.ca/pharmacare/plani/calculator/calculator.html>

Many clients with investment assets will have fluctuating incomes as Capital Gains are triggered in certain years. In addition, depending on how your assets are allocated, many "high asset investors" can craft a "low income" experience and be eligible for income tested benefits.

Thank you to client M.T. for sharing your MSP experience!



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