RBC Wealth Management Services

The Navigator

Tax Planning for U.S. Citizen Residents in Canada

Maximize your wealth by utilizing tax planning ideas and understanding the tax issues

Garrett Watson, CFA, CMT
Investment Advisor

333-7th Ave SW, Suite 1400,
Dome Tower
Calgary, AB T2P 2Z1
t: (403) 299-7368
e: garrett.watson@rbc.com

www.garrettwatson.ca

The United States is one of the few countries in the world that taxes U.S. citizens and green-card holders on their worldwide income no matter where they reside. Furthermore, U.S. citizens who reside in Canada are also subject to Canadian income tax on their worldwide income. Although the Canada-U.S. Income Tax Treaty ("Treaty") in many instances minimizes or eliminates double taxation, if you are a U.S. citizen resident in Canada, you should be aware of situations where you may be subject to double taxation or where you may need to satisfy additional U.S. reporting obligations.

This article discusses income tax and reporting obligations of U.S. citizens resident in Canada and potential strategies to minimize global tax payable.

This article is for information purposes only and does not provide tax or legal advice. Due to the complex tax rules for U.S. citizens residing in Canada, it is imperative that you obtain professional advice from a qualified tax or legal advisor specializing in cross-border tax planning before you act on any of the information provided in this article. This will ensure that your own circumstances have been considered properly and that action is taken on the latest information available. Note that many of the rules and strategies in this article may apply to U.S. green-card holders as well; however, this article does not specifically address green-card-holder issues.

Topics include:

A. Am I a U.S. citizen?

B. Canadian and U.S. income tax and other filing requirements

C. Avoiding double taxation

D. Foreign Account Tax Compliance Act (FATCA)

E. U.S. citizens investing in Canada (in RRSPs, U.S. retirement plans, RCAs, IPPs, PFICs & CFCs, foreign trusts, RESPs, TFSAs)

F. Voluntary disclosure for U.S. non-filers

G. Renouncing U.S. citizenship

A. Am I a U.S. Citizen?

Many individuals may not be aware of their U.S. citizenship status. If you were born in the U.S. or to U.S. citizen parents, the fact that you do not have a U.S. passport or that you never lived or worked in the U.S. does not mean you are not a U.S. citizen and are exempt from U.S. tax obligations.

If you were born in the U.S., you are automatically a U.S. citizen. If you were born outside the U.S. to U.S.-citizen parents or your parents are naturalized U.S. citizens, you must refer to U.S. citizenship laws in effect at the time of your birth to determine if you are a U.S. citizen. Even if only one of your parents is a U.S. citizen, you may have obtained U.S. citizenship under the laws at the time of your birth. If you are unsure, you should contact a legal professional who can review your situation and advise you accordingly.

B. Canadian and U.S. Income Tax and Other Filing Requirements

U.S. citizens residing in Canada must file both Canadian and U.S. income tax returns every year.

In Canada you must submit a T1 individual tax return to the Canada Revenue Agency (CRA), which calculates your federal and provincial (except Quebec) income tax liability. Residents of Quebec must submit a separate TP-1.D-V provincial tax return to Revenue Quebec. The deadline to file your Canadian return(s) is April 30th of the following calendar year (or June 15th if you or your spouse is self-employed). Regardless of the filing deadline, any tax liability must be paid by April 30th to avoid interest charges.

For U.S. federal tax purposes, even though you do not live in the U.S., you must file Form 1040 – U.S. Individual Income Tax Return annually with the Internal Revenue Service (IRS). The general filing deadline is April 15th of the following calendar year. However, the filing deadline may be extended to June 15th if you reside outside the U.S. and your main place of employment is outside the U.S. Regardless of the filing deadline, any tax owed must be paid to the IRS by April 15th to avoid interest charges.

If you earn income or hold assets abroad, there may be other U.S. foreign returns and disclosures that must be filed. The deadlines for these may differ from your individual tax return deadline. Your cross-border tax advisor can advise you on which filing requirements apply to you and assist you in preparing the necessary forms. The table on the next page lists some of the common additional filing obligations you may have:

C. Avoiding Double Taxation

Although Canadian and U.S. tax rules require you to report your worldwide income, these tax rules and the Treaty have provisions to minimize or eliminate double taxation. Generally, the country where the income was earned or is “sourced” has first right to tax the income. If the other country also taxes the income, it may allow you to deduct a certain amount or claim foreign tax credits to enable you to reduce your income tax liability and avoid or minimize double taxation.

For example, if you are employed in Canada, your employment income is subject to tax in Canada, which, in this case, has the first right to tax. You must also report this income on a U.S. tax return. The U.S. may allow you to claim what is referred to as a “foreign-earned income exclusion” and a “foreign housing exclusion or deduction” to reduce your U.S. taxable income. You may also claim foreign tax credits for the Canadian tax on that income. The U.S. allows you some discretion in making deductions or claiming foreign tax credits, so it is wise to have a qualified cross-border tax specialist help you determine which ones you should claim. After claiming these exclusions, deductions or foreign tax credits you may not have any taxes payable on your U.S. income tax return.

Since Canadian income tax rates are generally higher than U.S. rates, you will likely accumulate excess foreign tax credits on your U.S. return because you may not require all of the Canadian tax paid to offset your U.S. tax liability. You are still obligated to file a U.S. income tax return even if your U.S. tax liability is nil. On IRS Form 1116, the foreign tax credit form filed with your last U.S. tax return, you can determine the amount of excess foreign tax credits you have accumulated. These can be carried back one year or forward 10 years.

D. Foreign Account Tax Compliance Act (FATCA)

On March 28, 2010, President Obama signed the FATCA into law. FATCA is intended to combat offshore tax evasion through increased reporting and a possibly higher U.S. withholding tax requirement for payments to U.S. taxpayers who have accounts at non-U.S. financial institutions. Starting in 2014, FATCA may require non-U.S. financial institutions (such as foreign brokerage firms, banks, insurance companies) to identify U.S. citizens who have foreign accounts and provide information to the IRS on them.

These requirements are in addition to U.S. Qualified Intermediary (QI) agreements. Under QI agreements, U.S. citizen investors must complete IRS Form W-9 and provide their social security number, which allows financial institutions to exempt them from U.S. withholding tax. The procedures under FATCA may be required by all financial institutions that are QIs. If FATCA requirements are not followed or the investor refuses to provide the information, a 30% U.S. non-resident withholding tax may be levied on income payments from these accounts.

A detailed discussion of how FATCA will be implemented is beyond the scope of this article. Many financial institutions in Canada and abroad are still reviewing the rules, determining the requirements and lobbying for changes to soften the impact on their clients. With this new level of enforcement, the IRS may be able to more easily identify U.S. citizens who have failed to file U.S. federal income tax returns and other information returns and disclosures.

E. U.S. Citizens Investing in Canada

This section discusses certain tax planning ideas and important tax issues for Canadian residents who are U.S. citizens, including additional U.S. filing obligations that may result from investing in Canada.

Registered Retirement Savings Plan (RRSP)

For Canadian tax purposes there are two main benefits to making RRSP contributions – the contributions are tax-deductible and the income earned in the RRSP grows tax-deferred until withdrawn. For U.S. tax purposes, income earned in an RRSP can be tax-deferred only if you file an election requesting a deferral by completing and attaching IRS Form 8891 to your U.S. 1040 return every year.

RRSP contributions cannot be deducted to reduce your U.S. taxable income unless they were made to a company-sponsored group RRSP and

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Filing Requirements

U.S. Reporting Form	When to File
Form TDF 90-22.1 Report of Foreign Bank and Financial Accounts (FBAR)	When the aggregate value of foreign accounts such as Canadian bank or brokerage accounts, registered retirement and education savings accounts (RRSPs, RESPs), locked-in retirement accounts (LIRAs, LIFs, LRIFs and PRIFs) and Tax-Free Savings Accounts (TFSAs), which a U.S. citizen owns, has an indirect interest in, or has signing authority over exceeds US$10,000 at any time during the year.
Form 8938 Statement of Foreign Financial Assets	When the aggregate value of "specified foreign financial assets" (i.e. foreign financial accounts, foreign securities, any interest in foreign entities, any financial instruments or contracts with a non-U.S. counter party or issuer, foreign private equity and interest in privately held foreign entities) exceeds certain thresholds. For U.S. citizens living abroad who do not file a joint tax return with a spouse, the thresholds are US$200,000 at the end of the calendar year or US$400,000 at any time during the calendar year. (The thresholds if filing a joint tax return with a spouse are US$400,000 and US$600,000 respectively).
Form 3520 Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts **Form 3520-A** Information Return of Foreign Trusts with a U.S. Owner	When a U.S. citizen has an interest in a foreign trust (e.g. Canadian family trusts, RESPs, TFSAs and other trusts formed in Canada or outside the U.S.) and/or is responsible for reporting certain transactions associated with the foreign trust. Also, when a U.S. citizen is in receipt of certain large gifts from certain foreign persons (e.g. a gift or bequest of more than US$100,000 from a non-US person or gifts of US $14,165 from non-US corporations or partnerships).
Form 8621 Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund	When a U.S. citizen holds Canadian mutual funds or other foreign securities that are classified as a Passive Foreign Investment Company (PFIC) under U.S. tax law.
Form 5471 Information Return of U.S. Persons with Respect to Certain Foreign Corporations	When U.S. citizens are officers, directors or shareholders of certain foreign corporations. For example, when a U.S. citizen is the sole owner of a Controlled Foreign Corporation (CFC). A CFC is a foreign corporation where more than 50% of the total votes or value of the corporation is owned by a U.S. shareholder. A U.S. shareholder generally means a U.S. person who owns or is treated as owning 10% or more of the total voting power of the foreign corporation's voting shares. A U.S. citizen may need to include as ordinary income certain types of income earned by the CFC, even if no income has been distributed, including passive investment income and certain types of income derived from buying or selling goods or services to or from a related U.S. person or entity.

If you plan on retiring in Canada, you may consider consolidating your U.S. retirement plan with your Canadian RRSP for ease of administration. Ask your RBC advisor for the article that discusses this strategy in more detail.

are considered pension income under the Treaty. However, since Canadian income tax rates are generally higher than U.S. income tax rates, any foreign tax credits you claim may offset your U.S. income tax liability.

U.S. Retirement Plans

IRA, 401(K) and Other Similar U.S. Retirement Plans

Before coming to Canada, you may have accumulated assets in a qualified U.S. retirement plan (IRA, 401(k), etc.). The income earned in this plan may continue to grow on a tax-deferred basis, both for Canadian and U.S. tax purposes. If you plan on retiring in Canada, you may consider consolidating your U.S. retirement plan with your Canadian RRSP for ease of administration. There is a strategy for contributing lump sum withdrawals from a U.S. retirement plan to a Canadian RRSP on a tax-deferred basis without needing sufficient RRSP contribution room. Ask your RBC advisor for the article that discusses this strategy in more detail.

Roth IRA

You may also have a Roth IRA, which cannot be transferred to an RRSP using the above strategy. Assets in a Roth IRA may grow on a tax-deferred basis for U.S. tax purposes, and distributions may be received tax-free. For Canadian tax purposes, a Roth IRA is generally not considered a pension, and thus, income accrued in the plan is subject to Canadian taxation. However, if you qualify under the Treaty and meet certain criteria, you can make an election by a required date to treat the Roth IRA as a pension. This allows the income to accrue tax-deferred and distributions to be received tax-free. Ask your RBC advisor for the article on Roth IRAs, which includes qualifications and deadlines.

Retirement Compensation Arrangement (RCA)

If you plan to eventually return to the U.S., a common strategy to use up your excess foreign tax credits is to implement a Retirement Compensation Arrangement (RCA). With this strategy, your Canadian employer makes contributions to the RCA while you are a Canadian resident. For Canadian tax purposes, contributions to and income earned in the RCA are not taxable until paid out to the employee (a 50% refundable tax is paid upfront to CRA on the contributions made and income earned in the RCA, but is later refunded when payments are made to the employee). For U.S. tax purposes, employer contributions and income earned in the RCA is 100% taxable. However, you can use your excess foreign tax credits from current and previous years to offset any U.S. income tax due.

Withdrawals can be made from the RCA in retirement after leaving Canada. There is a 25% Canadian non-resident withholding tax on withdrawals, which may be reduced to 15% under the Treaty if the payments from the RCA qualify as periodic pension payments. **When withdrawals are made, the 50% refundable tax previously paid to CRA is refunded.** Since the RCA income was already included on your U.S. income tax return when the contributions were made, the withdrawal from the RCA is generally considered a return of capital and thus non-taxable for U.S. tax purposes.

This strategy effectively reduces your global tax rate on compensation by utilizing excess foreign tax credits. Thus, compensation that may have originally been taxed at up to 49% in Canada may ultimately be taxed at only 25% or 15%.

Please note that this is a complex strategy and requires your employer to set up an RCA. Speak to a qualified cross-border tax advisor to determine if you have sufficient excess foreign tax credits to make this strategy worthwhile.

Individual Pension Plan (IPP)

IPPs are ideal for individuals who want to contribute more to a tax-sheltered retirement plan than what's currently permitted by RRSPs. IPPs are generally best suited for individuals over age 40 who have significant employment income.

Contributions made to and income earned in an IPP are tax-deferred for Canadian tax purposes. For U.S. tax purposes, income earned in an IPP is tax-deferred. It may also be possible to defer tax on IPP contributions for

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U.S. tax purposes; however, if you have sufficient excess foreign tax credits, it may be wise to use them in the year contributions are made since they can only be carried forward for 10 years.

Similar to the RCA, there is an opportunity to reduce your global tax rate if you receive pension plan payments from a matured IPP as a non-resident of Canada. Due to the Treaty and the use of foreign tax credits, you may be subject to Canadian non-resident withholding tax of only 25% or 15% (for periodic pension payments) instead of Canadian tax of up to 49%.

Speak to your RBC advisor about IPPs. Like all pension plans, an IPP must be established by a company. Your qualified cross-border tax advisor can advise you on using your excess foreign tax credits and the tax implications of receiving a pension as a non-resident of Canada.

Passive Foreign Investment Company (PFIC)

There are harsh U.S. tax rules for U.S. citizens who invest in PFICs. A PFIC is a non-U.S corporation where the majority of the income earned or assets owned are passive (e.g. cash, bonds, stocks, etc). Most Canadian-based mutual funds or pooled funds are considered PFICs for U.S. tax purposes.

U.S. citizens owning shares of a PFIC may be subject to U.S. tax at top marginal rates instead of regular marginal rates or lower rates for long-term capital gains, as well as an interest charge on certain distributions from the PFIC and capital gains on the sale of PFIC stock. Depending on your situation, it may be possible to claim some of this U.S. tax (but not the interest charge) as a foreign tax credit on your Canadian tax return to minimize the tax burden.

To avoid or reduce the harsh U.S. PFIC rules, in some limited cases, two common tax elections may be made: the Qualified Electing Fund (QEF) or the "mark-to-market" election. In practice, these elections may be difficult to make since the information required for making a QEF election is generally not included in many mutual fund reporting packages, and mutual funds often do not trade on a qualified exchange, which is a requirement for a mark-to-market election.

The IRS is revising the filing requirements of Form 8621 – Information return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund, which is required if you own a PFIC. One of the new requirements may be to file the form whether or not in the year there is a distribution from the PFIC, you make one of the elections or you dispose of the stock. Accountants preparing Form 8621 generally charge additional fees which you should consider when evaluating your return on investment.

Holding Canadian mutual funds or other PFICs in a TFSA or RESP does not exempt you from the harsh U.S. tax rules or the requirement to file Form 8621. There is also uncertainty regarding whether the new Form 8621 filing requirements will apply if these securities are held in registered accounts such as RRSPs or RRIFs, where Form 8891 has been filed. Therefore, ask your tax advisor for advice before investing in PFICs in your RRSP or RRIF.

The PFIC rules may be avoided by investing in individual stocks or bonds. Alternatively, if you desire pooled fund type investments, you may invest in iShares, which are exchange-traded funds (ETFs), trading on the NYSE, and are generally not considered PFICs

There are important tax issues that a U.S. citizen should be aware of if they create or settle a foreign trust, transfer money or property to a foreign trust, or receive a distribution from a foreign trust as a beneficiary.

(although you should confirm that the U.S. ETF is set up as a U.S. domestic entity). Note that iShares trading on the TSX are structured as Canadian-based mutual funds and, therefore, are likely considered PFICs. For segregated funds of an insurance company the IRS has not confirmed whether the PFIC rules will apply, therefore, speak to your tax advisor for advice before investing in segregated funds. Canadian-based income trusts or Real Estate Investment Trusts (REITs) that carry on an active business may also escape the PFIC rules; however, you should consult with a qualified tax advisor for confirmation.

Note that U.S. citizens in Canada who own shares of a private Canadian active corporation or Canadian passive holding company are also potentially subject to the PFIC rules or the Controlled Foreign Corporation (CFC) rules discussed earlier. Where both the PFIC and CFC rules apply, a U.S. shareholder will be exempt from the PFIC provisions and the CFC rules will apply. However, if the company was a PFIC before it was a CFC or before 1998, the PFIC provisions may still apply.

The PFIC and CFC rules are complex. You should seek advice from a cross-border tax advisor regarding your exposure to them.

Foreign Trusts with U.S. Settlors and Beneficiaries

There are important tax issues that a U.S. citizen should be aware of if they create or settle a foreign trust, transfer money or property to a foreign trust, or receive a distribution from a foreign trust as a beneficiary.

A foreign trust is not considered to be a U.S. domestic trust. A trust is considered to be foreign if a U.S. court cannot exert control over the administration of the trust or no U.S. persons have the authority to make substantial decisions on the trust. A foreign trust may be either a “grantor” or “non-grantor” trust, which determines the U.S. income tax implications.

Foreign Grantor Trust

A foreign trust may be a grantor trust where the grantor (settlor or person who transfers property to the trust) has significant control over the trust and the distribution of trust property to beneficiaries. As a general rule, where a U.S. citizen creates or transfers assets to a foreign trust for a U.S.-citizen beneficiary, the trust is deemed to be a grantor trust. A U.S. citizen who creates or transfers assets to a foreign grantor trust is treated for U.S. tax purposes as the owner of those assets and is taxed personally on any income or gains attributable to those assets on a current year basis (even if the income and gains are not paid out from the trust to the beneficiary in the year). For example, if income from the foreign grantor trust were paid out to a beneficiary or earned in the trust but not paid out, the beneficiary would incur no tax consequences; however, the settlor or transferor would report the income earned in the trust annually.

Examples of a foreign grantor trust include a TFSA opened by a U.S. citizen and an RESP for a U.S. beneficiary where the subscriber is a U.S. citizen.

A trust can start out as a grantor trust and later become a non-grantor trust. For example, if a U.S. citizen who is the subscriber of an RESP that is a foreign grantor trust passes away, the trust becomes a foreign non-grantor trust for the U.S. beneficiary.

Foreign Non-Grantor Trust

A foreign non-grantor trust is a foreign trust that does not meet the definition of a grantor trust. This type of trust is its own entity, separate and apart from the settlor, trustee and beneficiary. In general, income retained by the trust is taxed in the trust and income that is distributed to the beneficiary is taxable to the beneficiary. For Canadian tax purposes income taxed in a Canadian trust may be subject to tax at the highest marginal tax rate or, for testamentary trusts, at graduated tax rates. Although, there may be no further Canadian taxation when distributions are made to the beneficiary, there are some potentially punitive U.S. tax rules ("throwback rules") for U.S.-citizen beneficiaries of foreign non-grantor trusts when income earned in the trust is not distributed (and taxed) to the beneficiaries in the year it was earned. Ask your tax advisor to confirm the ability to claim a foreign tax credit to minimize the double taxation that may result.

Although the U.S. throwback rules are complex, in general, income and capital gains paid from a foreign non-grantor trust to U.S. beneficiaries in a subsequent tax year are taxed at a higher U.S. tax rate than income and capital gains paid out in the same year they are earned. When the throwback rules apply, accumulated income paid out in a future year loses its character and is taxed as ordinary income. Furthermore, an interest charge is applied to the tax owed since U.S. tax was not paid during the time the income was accumulating in the foreign trust.

Trustees of foreign non-grantor trusts must decide whether it is better to accumulate the income in the trust and be subject to the throwback rules or use certain strategies to minimize the higher U.S. tax and minimize double taxation. Some of these strategies may include paying income earned in the trust in the year it is earned. For some trusts this may result in a much larger payout than the beneficiaries need or will use during their lifetimes, which exposes the income to U.S. estate tax.

Other strategies may include making distributions only to non-U.S. beneficiaries or, when creating the trust, ensuring no current or future U.S. citizens can be beneficiaries of the trust.

There are U.S. filing requirements for U.S. citizens with respect to foreign trusts: Form 3520 or 3520A. Accountants may charge additional fees to prepare these forms, which you should consider when reviewing your return on investment. If you have an interest in a trust in Canada or wish to set one up, you should speak to a qualified cross-border tax professional for advice.

Registered Education Savings Plan (RESP)

Although U.S. citizens living in Canada can invest in RESPs, there may be negative consequences for U.S. tax purposes where a U.S. citizen is the subscriber or beneficiary of an RESP. Unlike RRSPs you cannot elect to defer the taxation of income earned in an RESP. Furthermore, depending on the residency of the subscriber or beneficiary, the foreign grantor and non-grantor trust rules discussed earlier may apply.

For example, when contributions to an RESP for a U.S. beneficiary are made by a U.S. citizen, the foreign grantor trust rules apply. This means the income earned within the plan (excluding unrealized capital gains, but including Canadian Education Savings Grants) is taxable annually for U.S. tax purposes to the subscriber and not the beneficiary. There are no U.S. or Canadian tax consequences for the subscriber when income is withdrawn. However, there may be double taxation because the beneficiary may be subject to Canadian income tax on the income and CESGs received from the plan.

If the subscriber is not a U.S. citizen or is a U.S. citizen but has passed away, and the beneficiary is a U.S. citizen, the RESP will be considered a foreign non-grantor trust. The throwback rules will therefore apply to the beneficiary when they make a withdrawal. If there is any Canadian taxation on the withdrawal made by the beneficiary, they may claim a foreign tax credit on their U.S. tax return.

Since an RESP is a foreign trust, a U.S. citizen who invests in one is subject to the U.S. reporting requirements for foreign trusts. IRS Forms 3520 and 3520-A must be filed annually by a U.S.-citizen subscriber. A U.S. citizen beneficiary must file these forms in the year of withdrawal. The reporting requirements will likely result in additional tax advisor fees. Failure to file these forms in the year of withdrawal may result in a portion of the original RESP contributions being taxed to the U.S. beneficiary.

It is important to consider these consequences if you are a U.S. citizen considering investing in RESPs for your children. If you have non-U.S. citizen children, it may be better for a non-U.S. citizen parent or another relative in Canada (who is not a U.S. citizen) to set up the RESP. For example, if a U.S. citizen marries a Canadian and they have a child who is not a U.S. citizen, contributions by the Canadian spouse or the Canadian parents of the spouse could be made for the child or grandchild to avoid the negative U.S. tax implications. Speak to a cross-border tax advisor about investing in an RESP.

Tax-Free Savings Account (TFSA)

For Canadian tax purposes, investment income earned in a TFSA is not taxable. However, for U.S. tax purposes, U.S. citizens are taxed on income earned in a TFSA. Also, since TFSAs are set up primarily as trusts, the U.S. foreign grantor trust rules apply. A U.S. citizen may be

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able to offset U.S. income tax on the investment income if they have adequate excess foreign tax credits related to passive income. Since a TFSA is a foreign trust, additional U.S. reporting on Forms 3520-A and 3520 is required. This additional reporting will likely result in additional tax advisor fees.

In deciding to invest in a TFSA, U.S. citizens should consider whether they have sufficient foreign tax credits to minimize or eliminate their U.S. tax liability and should consider the effects any additional compliance fees will have on their return on investment. Speak to a cross-border tax advisor regarding investing in a TFSA.

F. Voluntary Disclosure for U.S. Non-Filers

The U.S. government and the IRS have increased their focus on U.S. citizens who fail to file U.S. federal income tax returns and other returns and disclosures related to offshore income and assets. With the passing of FATCA, the IRS will encourage compliance and may be able to locate non-compliant U.S. citizens. If you are not filing annual U.S. income tax returns or other required documentation, speak to a qualified tax or legal advisor regarding your options.

The IRS has implemented voluntary disclosure programs in the past to encourage U.S. citizens to resolve their U.S. filing and offshore disclosure obligations using amnesty periods. These programs generally require you to file the last six to eight years of tax returns. If a specific program is not available, your tax advisor can advise you on how to make a voluntary disclosure.

In many cases, there may be little or no U.S. income tax owing on your annual U.S. tax return due to the deductions and foreign tax credits discussed earlier. However, there may be substantial penalties and, in some cases, criminal proceedings associated with failing to file U.S. federal income tax returns, information returns and other disclosures. Failure to file may also create problems at the border when travelling to the U.S. or may prevent or delay family members' U.S. citizenship applications in the future.

G. Renouncing U.S. Citizenship

U.S. citizens or long-term green-card holders intending to live in Canada permanently may be considering renouncing their U.S. citizenship to avoid the administrative burden of filing annual U.S. income tax returns and other required disclosures. Effective June 17, 2008 new expatriation rules were passed in the U.S. under the Heroes Earnings Assistance and Relief Tax Act (the HEART Act).

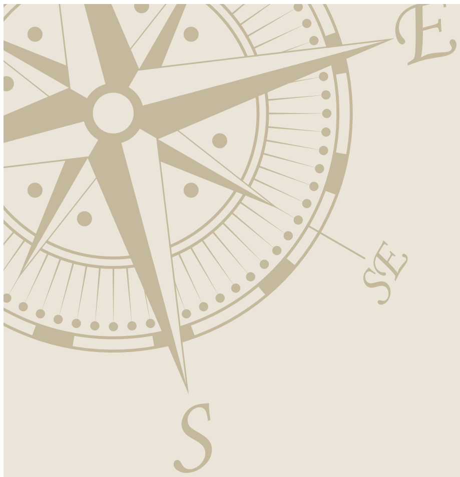
Exit Tax (Deemed Disposition)

U.S. citizens, who expatriate, as well as long-term U.S. permanent residents (i.e. green-card holders for eight of the last 15 years) who give up their U.S. residency, may be subject to an exit tax if they meet any of these criteria:

- Your average annual net income tax liability for the five years preceding the date you relinquish U.S. citizenship or U.S. residency status exceeds US$147,000 (2011 inflation adjusted amount);
- Your net worth at the date you relinquish U.S. citizenship or residency exceeds US$2 million (note: all property subject to gift tax or property that holds certain rights may be included in determining your net worth); or
- You failed to certify under "Penalties of Perjury" that you have complied with all of your tax obligations for the preceding five years.

If you meet any of these criteria, you will be considered a "covered expatriate". There are exceptions to the exit tax rules for covered expatriates who received dual citizenship at birth (i.e. U.S. citizenship and citizenship of another country) and have not lived in the U.S. for more than 10 of the last 15 years, and for individuals less than 18.5 years old who have not lived in the U.S. for more than 10 years.

Covered expatriates are subject to a "mark-to-market" tax. This is an income tax on the net unrealized gain on their worldwide property as



Certain assets, such as deferred compensation schemes, specified tax-deferred accounts, and interests in non-grantor trusts, are not subject to the mark-to-market tax.

if the property had been sold for its fair market value (FMV) on the day immediately prior to the expatriation date. You can offset any loss from the deemed sale against your deemed gains. Any net gain on the deemed sale in excess of US $636,000 (2011 inflation adjusted threshold) is subject to tax at graduated U.S. tax rates. Your worldwide property includes ownership of U.S. real estate property. The adjusted cost base of your U.S. real estate is automatically set to be equal to the deemed proceeds (i.e. FMV on day immediately prior to the expatriation date) unless you elect otherwise. Any further appreciation of your U.S. real estate property is subject to U.S. income tax when you sell the property using the new adjusted cost base. While you can elect to post security in order to defer payment of the exit tax until your death, you should note that an interest charge will be levied, the election is irrevocable, and income tax treaty rights that might have provided tax relief must be waived.

Certain assets, such as deferred compensation schemes, specified tax-deferred accounts, and interests in non-grantor trusts, are not subject to the mark-to-market tax. The following sections are for information purposes only, refer to a qualified cross-border accountant for further information or clarification on these items.

Deferred Compensation Schemes

"Eligible" deferred compensation schemes are not subject to immediate taxation. Instead, a 30% withholding tax applies to any taxable distributions you receive in the future. You cannot reduce this withholding tax rate since any applicable treaty rights that would otherwise reduce the rates are waived. Eligible deferred compensation schemes include pensions and retirement arrangements payable by a U.S. person or by a person who elects to be treated as a U.S. person for purposes of withholding. If a deferred compensation plan is not eligible, a taxable amount will be immediately included in income as if it is received on the day before the expatriation date and is subject to regular U.S. tax rates. For example, a 401k plan may be an eligible deferred compensation scheme subject to deferral and a 30% tax rate; however, an RRSP may not be an eligible deferred compensation scheme and any taxable amounts will be subject to immediate taxation in the U.S. The distributions are not subject to any early distribution penalty in the U.S. that may otherwise apply. There may be an element of double taxation since you will also be taxed in Canada in the future when you draw a retirement income from the RRSP. Ask your tax advisor to assess the impact of the exit tax on your foreign retirement plans and whether it makes sense to withdraw funds from the plan to minimize or avoid double taxation.

Specified Tax-Deferred Accounts

Specified tax-deferred accounts, such as individual retirement plans, a qualified tuition plan, a Coverdell education savings account, a health savings account, and an Archer medical savings account, are treated as if your entire interest is received as a distribution on the day before the expatriation date and are subject to regular U.S. tax rates. These deemed distributions are not subject to any early distribution penalty in the U.S. that would otherwise apply.

Interests in Non-Grantor Trusts

Taxable distributions from a domestic or foreign non-grantor trust (a trust where the covered expatriate is the beneficiary and not the owner or settlor of the trust for U.S. tax purposes)

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established before the expatriation date are subject to a 30% withholding tax for the remainder of the covered expatriate's lifetime. The trust must also recognize and report the capital gain on any appreciated property distributed to the covered expatriate, as if the property was sold to the covered expatriate at its fair market value. These rules only apply to non-grantor trusts of which the covered expatriate was a beneficiary before the expatriation date. Consider settling a non-grantor trust after the expatriation date or naming the covered expatriate as a beneficiary after the expatriation tax, as future distributions from the trust would be free from U.S. tax.

Property in a grantor trust (a trust where the grantor is the owner or settlor) is deemed sold at market value (mark-to-market).

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U.S. Gift and Estate Tax

Once you expatriate, your exposure to U.S. estate and gift tax depends upon whether or not you are a covered expatriate.

If You Are Not a Covered Expatriate

If you are not a covered expatriate, there is generally no U.S. gift tax after you expatriate on gifts of U.S. intangible property such as U.S. stocks, bonds and cash held in non-U.S. financial institutions that you gift to anyone. However, U.S. gift tax may apply to gifts of U.S. real estate and other U.S. tangible personal property (vehicles, art, jewellery, etc.) located in the U.S. if its value exceeds certain thresholds. The threshold for gifts is US$13,000 (for 2011 and 2012) for someone other than a spouse or US$136,000 for 2011 and US$139,000 for 2012 (adjusted for inflation) for gifts to a non-US-citizen spouse. After expatriation, you will no longer benefit from the lifetime gift tax exemption (US$5 million in 2011 and US$5.12 million in 2012) that applies to U.S. citizens.

After you expatriate, you are no longer subject to U.S. estate tax on your worldwide assets. However, U.S. estate tax may apply to U.S. situs property if you have more than US$60,000 in U.S. situs property and your worldwide assets are greater than US$5 million in 2011 or US$5.12 million in 2012 (inflation-adjusted threshold). For more information, ask your RBC advisor for the article on U.S. estate tax for Canadians who are not U.S. citizens.

Even if you are a covered expatriate, provided that gifts of U.S. intangible property are not made to a U.S. citizen or resident, you will not be subject to U.S. gift tax. However, gift tax may apply to gifts of U.S. tangible property that exceed the thresholds discussed above. If you do not make bequests to a U.S. citizen, you may only be subject to U.S. estate tax on U.S. situs property if you exceed the thresholds.

If You Are a Covered Expatriate

If you are a covered expatriate and you make a gift or bequest to a U.S. citizen or U.S. resident, a special transfer tax will be levied at the highest marginal U.S. federal gift/estate tax rate (currently 35% for 2011 and 2012). The special transfer tax applies to gifts or bequests of any property (not just U.S. situs property) in excess of the annual US$13,000 (2011 and 2012) threshold. The U.S. beneficiary is taxed, not the covered expatriate. The beneficiary may reduce the transfer

Since there is a deemed disposition on death for Canadian tax purposes, taxable to the deceased covered expatriate, and an estate tax levied to U.S. beneficiaries for bequests made to them, double taxation may occur.

tax by any corresponding gift or estate taxes they paid to a foreign country. Gifts or bequests that resulted in a gift tax or estate tax liability for the covered expatriate are not subject to the special transfer tax, nor are gifts or bequests to a qualified U.S. charity or covered expatriate's spouse.

Special rules apply for gifts or bequests made to U.S. trusts and foreign trusts with U.S. beneficiaries. In the former case, tax applies as if the domestic trust was a U.S. citizen, and the trust pays the tax. In the latter case, transfer tax is imposed as the distributions are made to U.S. beneficiaries. If the distribution from the trust or estate is subject to U.S. income tax, the beneficiary will be able to deduct the transfer tax imposed by the special rules.

Since there is a deemed disposition on death for Canadian tax purposes, taxable to the deceased covered expatriate, and an estate tax levied to U.S. beneficiaries for bequests made to them, double taxation may occur. It is not known whether the U.S. will relax its tax rules to allow U.S. beneficiaries to claim a deduction or credit for Canadian tax paid by the deceased on the deemed disposition.

Speak to a cross-border accountant to help you analyze and assess the impact of renouncing your U.S. citizenship. If you are not a covered expatriate, the impact may be minimal. Covered expatriates will need to assess their exposure to the exit tax and the special gift and estate transfer tax that may apply to intended U.S. beneficiaries.

If you are a U.S. citizen in Canada who does not wish to renounce U.S. citizenship, ask your RBC advisor for the article that discusses estate planning for U.S. citizens residing in Canada.

Please contact us for more information.

NAV0007-EN (08/2012)