

# THE NAVIGATOR

## IRS REPORTING FOR U.S. PERSONS WITH RRSPS AND RRIFs

### **U.S. Form 8891 – U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plan**

If you are a U.S. person and the annuitant of a Canadian Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF) you should be aware of the U.S. tax and filing requirements that apply to these plans. A U.S. person includes a U.S. citizen, U.S. green-card holder or a U.S. resident (e.g. a Canadian who moves to the U.S.).

The Internal Revenue Service (IRS) requires a U.S. person who is the annuitant of an RRSP/RRIF to complete and file IRS form 8891 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans) annually for U.S. federal income tax purposes in order to disclose information about the plan. The information that must be disclosed for each RRSP/RRIF is the plan balance at the end of the year, distributions received from the plan during the year and in certain cases contributions made to the plan.

Form 8891 also can be used to make an election pursuant to Article XVIII(7) of the Canada-U.S. income tax treaty to defer U.S. income tax on income earned by an RRSP/RRIF that has been accrued, but not distributed. Although for Canadian tax purposes income and gains earned in an RRSP/RRIF

are tax deferred until distributions are made, for U.S. tax purposes a deferral is only permitted when an election on form 8891 is made. When an election is not made, income and gains earned must be disclosed on form 8891 and included as taxable income on your U.S. income tax return. This may result in double taxation due to the possible timing mismatch between Canadian and U.S. income tax rules for reporting the income and gains in your RRSP/RRIF.

Note: This article is for information purposes only and does not provide tax or legal advice. You should obtain professional advice from a qualified tax or legal advisor specializing in cross-border tax to assist you with any questions on the topics discussed. This will ensure that your own circumstances have been considered properly and that action is taken on the

latest information available.

### **FILING REQUIREMENTS OF FORM 8891**

Form 8891 and its general instructions can be downloaded from the IRS website: [www.irs.gov](http://www.irs.gov).

A separate form 8891 must be filed for each RRSP/RRIF. If you and your spouse file a joint U.S. income tax return, each of you must file your own form 8891 for the RRSP/RRIF of which you are the annuitant.

The IRS has indicated that taxpayers must retain supporting documentation for the information required to be reported, including RRSP contribution receipts, Canadian tax slips T4RSP, T4RIF or NR4, and periodic or annual statements issued by the custodian of the RRSP/RRIF.



RBC Wealth Management



**A separate form 8891  
must be filed for each  
RRSP/RRIF.**

## **ANNUITANT AND BENEFICIARY IS ONE AND THE SAME PERSON**

Assistance from your tax advisor in completing form 8891 is highly recommended due to the complexities. For example, the general instructions for completing the form make a distinction between the “annuitant” and the “beneficiary” of the RRSP/RRIF. The instructions define “beneficiary” as a person who has to pay U.S. income tax on RRSP/RRIF investment earnings if a treaty election is not made and “annuitant” as an individual who is designated under the RRSP/RRIF as the annuitant.

Although the definitions in the general instructions appear to indicate the annuitant and beneficiary are two separate individuals, they are actually one and the same. Therefore, you may follow the instructions for the beneficiary, which require you to provide treaty-election information in section 6 of form 8891, instead of following the instructions for the annuitant, which skip the treaty-election procedure.

## **ELECTION TO DEFER U.S. TAX ON ACCRUED INCOME IN RRSPs/ RRIFs**

To make a valid treaty election, attach a completed form 8891 to your U.S. income tax return (form 1040) annually. Since the election allows you to defer U.S. taxation of income accrued in your RRSP/RRIF until distributions are made, the taxation of distributions from your RRSP/RRIF will be realized in the same taxation year for both Canadian and U.S. income tax purposes. This enables you to claim a foreign tax credit on your U.S. income tax return, which reduces the potential for double taxation.

If you decide not to make a treaty election to defer tax, you must report

the undistributed earnings in section 10 of form 8891 and on your U.S. tax return (form 1040).

Note: If you live in the U.S. in a state that levies income tax, you should be aware that although you are required to complete form 8891 for U.S. federal tax purposes, certain U.S. states may not allow a tax-deferral on income accrued in your RRSP/RRIF. These states do not accept form 8891. As a result, income and gains accrued in your RRSP/RRIF may be taxable on an annual basis for U.S. state tax purposes, even if there is a tax-deferral for U.S. federal tax purposes. In this case, double taxation may occur. Speak to a cross-border tax advisor if you live in the U.S. and are uncertain of the tax obligations for your RRSP/RRIF under U.S. state tax laws.

## **CANADIAN TAX ON DISTRIBUTION FROM YOUR RRSP/RRIF**

For Canadian tax purposes, you are able to deduct RRSP contributions on your Canadian tax return based on your RRSP deduction limit. However, when distributions are made from your RRSP/RRIF, the whole amount distributed is subject to taxation in Canada.

Distributions made to residents of Canada are reported on their Canadian income tax return and together with other taxable income are subject to tax at graduated tax rates.

If you are a non-resident of Canada when the distributions are made, you will be subject to non-resident withholding tax at source and are not required to file a Canadian income tax return. The Canadian non-resident withholding tax rate is 25%. This rate may be reduced if there is a tax treaty with the foreign country. For example, the Canada-U.S. income tax treaty reduces the rate to 15% for

If you are a non-resident of Canada when the distributions are made, you will be subject to non-resident withholding tax at source.

distributions made to residents of the U.S. where the payments qualify as “periodic pension payments”. Periodic pension payments generally include payments from a RRIF during the calendar year that are less than the greater of i) twice the minimum withdrawal required for the year or ii) 10% of the fair market value of the RRIF at the beginning of the year.

It is possible for non-residents of Canada to elect under section 217 of the Canadian Income Tax Act to file a Canadian s.217 non-resident income tax return to report the RRSP/RRIF income. This return allows for the distributions to be taxed at graduated tax rates on a Canadian income tax return as opposed to a fixed non-resident withholding tax rate. Note that the graduated tax rates used to calculate the Canadian tax liability takes into account your worldwide income level. This may result in a higher effective tax rate than the fixed non-resident withholding tax rate. Therefore, electing to file a Canadian s.217 tax return may only make sense if the tax at graduated tax rates is lower than the tax at the fixed non-resident withholding tax rate. The election to file

a Canadian s.217 return is completely voluntary. You should discuss with your tax advisor whether it makes sense for you to make this election.

### **U.S. TAX ON DISTRIBUTION FROM YOUR RRSP/RRIF**

For U.S. tax purposes, contributions made to your RRSP are not tax-deductible (except for contributions to group RRSPs). For this reason, the portion of the RRSP/RRIF distribution relating to non-deductible contributions is generally not taxable when withdrawn. The non-deductible contributions form part of what is referred to as your “basis” in the RRSP. In other words, the basis in the plan is the portion that is not taxable. If you do not make an election with form 8891 to defer taxation of the income accruing in an RRSP/RRIF the income that is taxed annually for U.S. tax purposes is also added to your basis in the plan.

When distributions are made from your RRSP/RRIF, you will be required to calculate the taxable portion taking into consideration your basis in these plans. A discussion of the complex calculation used to determine the taxable portion of the distributions is

beyond the scope of this article. You should seek professional tax assistance from your cross-border tax advisor, who can assist you with the calculation.

The taxable portion is reported on form 8891 and on your U.S. income tax return and will be subject to U.S. income tax. To reduce or eliminate double taxation you can claim a foreign tax credit on your U.S. tax return for the Canadian tax incurred.

Canadians with large accrued gains in their RRSP/RRIF who are planning to move to the U.S. should consider whether it makes sense to increase their basis in the plan to potentially reduce their exposure to U.S. taxation. The basis in the plan can be increased by selling and repurchasing assets in the RRSP/RRIF before you leave Canada. Note: the sale and repurchase of securities in an RRSP/RRIF will not trigger Canadian income tax but there may be service/commission fees incurred. Before you move to the U.S., speak to your tax advisor for guidance on whether this strategy for increasing the basis in your RRSP/RRIF is appropriate.

Please contact us for more information about the topics discussed in this article.

This document has been prepared for use by the RBC Wealth Management member companies, RBC Dominion Securities Inc. (RBC DS)\*, RBC Phillips, Hager & North Investment Counsel Inc. (RBC PH&N IC), RBC Global Asset Management Inc. (RBC GAM), Royal Trust Corporation of Canada and The Royal Trust Company (collectively, the "Companies") and their affiliates, RBC Direct Investing Inc. (RBC DI) \*, RBC Wealth Management Financial Services Inc. (RBC WM FS) and Royal Mutual Funds Inc. (RMFI). Each of the Companies, their affiliates and the Royal Bank of Canada are separate corporate entities which are affiliated. \*Members-Canadian Investor Protection Fund. "RBC advisor" refers to Private Bankers who are employees of Royal Bank of Canada and mutual fund representatives of RMFI, Investment Counsellors who are employees of RBC PH&N IC and the private client division of RBC GAM, Senior Trust Advisors and Trust Officers who are employees of The Royal Trust Company or Royal Trust Corporation of Canada, or Investment Advisors who are employees of RBC DS. In Quebec, financial planning services are provided by RMFI or RBC WM FS and each is licensed as a financial services firm in that province. In the rest of Canada, financial planning services are available through RMFI, Royal Trust Corporation of Canada, The Royal Trust Company, or RBC DS. Estate & Trust Services are provided by Royal Trust Corporation of Canada and The Royal Trust Company. If specific products or services are not offered by one of the Companies or RMFI, clients may request a referral to another RBC partner. Insurance products are offered through RBC WM FS, a subsidiary of RBC DS. When providing life insurance products in all provinces except Quebec, Investment Advisors are acting as Insurance Representatives of RBC WM FS. In Quebec, Investment Advisors are acting as Financial Security Advisors of RBC WM FS. The strategies, advice and technical content in this publication are provided for the general guidance and benefit of our clients, based on information believed to be accurate and complete, but we cannot guarantee its accuracy or completeness. This publication is not intended as nor does it constitute tax or legal advice. Readers should consult a qualified legal, tax or other professional advisor when planning to implement a strategy. This will ensure that their individual circumstances have been considered properly and that action is taken on the latest available information. Interest rates, market conditions, tax rules, and other investment factors are subject to change. This information is not investment advice and should only be used in conjunction with a discussion with your RBC advisor. None of the Companies, RMFI, RBC WM FS, RBC DI, Royal Bank of Canada or any of its affiliates or any other person accepts any liability whatsoever for any direct or consequential loss arising from any use of this report or the information contained herein. ® Registered trademarks of Royal Bank of Canada. Used under license. © 2013 Royal Bank of Canada. All rights reserved.

NAV0108-EN (06/2013)