Wealth Management

the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

Moving from Canada

Key tax and estate planning considerations

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

You're moving from Canada to another country — perhaps for an employment opportunity or maybe you're just tired of Canada's winters and want to live or retire somewhere with a warmer climate. For whatever the reason(s), it's important to be aware of the tax and estate planning issues that may arise as a result of your move and take advantage of any planning opportunities you may be able to utilize to eliminate or minimize any tax implications.

This article summarizes common Canadian tax and estate planning issues and considerations for Canadian tax residents who cease Canadian residency as a result of moving from Canada to another country.

This article is intended for Canadian resident individuals who are not U.S. citizens or green-card holders. Unless otherwise stated, this article only addresses Canadian federal tax considerations. If you're moving to the U.S., please ask your RBC advisor for the article on moving from Canada to the U.S. which includes a more focused discussion of the tax and estate planning issues relating to a move to the U.S.

Ceasing Canadian residency

Your Canadian income tax and filing requirements are based on your Canadian tax residency status. If you cease Canadian tax residency, you will become a non-resident of Canada and will be subject to a number of Canadian income tax and filing requirements as a result of your departure which are discussed in the sections to follow.

If you need help in determining your Canadian residency status this is a topic of a separate article. Please ask your RBC advisor for a copy of that article.

Canadian deemed disposition rule

On the date you cease Canadian residency for Canadian tax purposes, you're deemed to have disposed of all the property you own worldwide at its fair market value (FMV), subject to certain exceptions, and to have immediately reacquired the property for that same value. Property subject to this deemed disposition rule includes securities in your non-registered investment portfolios, real estate situated outside of Canada, shares of Canadian private corporations and

partnership interests. These rules apply whether or not the property is physically moved outside of Canada.

The deemed disposition rule ensures that you're subject to tax in Canada in respect of capital gains that have accrued while you're a resident of Canada. The tax liability resulting from the realization of these accrued gains is often referred to as "departure tax."

If the deemed disposition results in a net capital loss (allowable capital losses exceed your taxable capital gains), the loss can be carried back to any of the three preceding tax years to offset any taxable capital gain realized in those years. This may result in a tax refund to you. The net capital losses may also be carried forward indefinitely. While you're a non-resident of Canada, if you realize a capital gain on property that is taxable in Canada (e.g. on the sale of Canadian real estate) and you're required to file a Canadian tax return, you can use any carried-forward net capital loss against the taxable capital gain realized to reduce your Canadian tax liability.

It's important to note that when you move to another country, the cost base of your property in that country may not automatically change to the FMV of the property on the date you cease Canadian residency for that country's tax purposes. You will need to review the tax laws of the country in which you're now a resident as well as the income tax treaty between Canada and your new country of residence, if any, to determine the cost base of your property for tax purposes in your new country of residence. Such a determination may be necessary if your new country of residence imposes a capital gains tax or any other type of tax that requires you to know the cost base of your property.

Property exempt from the deemed disposition rule

Property exempt from the Canadian deemed disposition rule includes, but is not limited to, the following types of property:

- Canadian real estate, resource and timber property;
- Canadian business property (including inventory) in certain cases where the business is carried on in Canada;
- Property in registered pension and other registered plans (e.g. registered retirement savings plan (RRSP), registered retirement income fund (RRIF), registered education savings plan (RESP), tax-free savings account (TFSA), locked-in retirement plans and employer-provided pension plans);
- Employee stock options;
- Interest in life insurance policies other than segregated funds;

The deemed disposition rule ensures you're subject to tax in Canada in respect of capital gains that have accrued while you're a resident in Canada. The tax liability resulting from the realization of these accrued gains is often referred to as the "departure tax".

- Property held in a Canadian resident trust where the trust remains resident in Canada;
- Property owned by a Canadian corporation (but not the shares of the corporation itself);
- Property you owned when you last became a resident of Canada, or that you inherited after you last became a resident of Canada if you've been resident in Canada for five years or less during the 10-year period before you ceased Canadian residency.

Some of the property listed above may still be subject to Canadian taxation at a later date (e.g. Canadian real estate may be subject to tax when sold; RRSPs are subject to tax on withdrawal or upon your death).

Canadian tax reporting for the year of your move

Personal income tax return

When you cease Canadian residency partway through a calendar year, you must file a Canadian resident tax return and report your worldwide income for the portion of the year that you were a resident in Canada, as well as report any capital gains or losses resulting from the deemed disposition of your property on departure. This return is often referred to as a "part-year return" or "departure return." Certain personal tax credits such as the basic personal amount and spousal amount will be prorated based on the number of days you were a tax resident of Canada. The same filing and payment deadlines that would apply to you if you were a resident of Canada and filing a tax return for the full year apply to the filing of a part-year Canadian tax return.

Information reporting

There are various informational reporting forms that may need to be completed when you cease Canadian residency. A detailed discussion of all of the reporting requirements is beyond the scope of this article. However, here are some of the common types of informational forms you may need to complete and some general information about each:

T1243 Deemed Disposition of Property by an Emigrant of Canada

If you own property that is subject to the deemed

disposition rule, you must complete this form and calculate the capital gains or losses relating to the property arising from the disposition.

T1161 List of Properties by an Emigrant of Canada

If the FMV of all of the "reportable property" you own on the day you cease Canadian residency is greater than $25,000, you must file a separate informational form to disclose ownership of these properties. In general, all properties you own must be reported except for those that are specifically excluded. Excluded property includes any personal use property with a value of less than $10,000; cash (including bank deposits); and certain registered plans, such as an RRSP, RRIF, RESP and TFSA.

T1135 Foreign Income Verification Statement

If at any time during the calendar year you owned or held a beneficial interest in certain foreign property with a total cost of more than CAN$100,000, you're required to file an additional informational form. A discussion of this form is the topic of a separate article that you may obtain from your RBC advisor. Technically, you're required to provide information on certain foreign property for the entire calendar year, even though you may have only been a resident of Canada for part of the year. However, administratively, the Canada Revenue Agency (CRA) may only require you to provide information relating to the period during which you were a resident of Canada and may not require you to include transactions that occur or properties acquired after ceasing residency.

Deferring payment of departure tax

You may elect through a prescribed CRA form to defer the payment of departure tax resulting from the deemed disposition rule. Depending on the amount of tax you're deferring, you may be required to provide the CRA with adequate security. A discussion of the process and filing requirement is beyond the scope of this article. In general, you will pay the deferred departure tax (without interest and penalties) when you eventually sell or otherwise dispose of the properties.

As mentioned, your departure tax is computed based on the FMV of the property on the date you cease Canadian residency. Your departure tax liability does not change even if the value of the property increases or decreases after that date. Consequently, if the value of the property substantially decreases after the date you cease Canadian residency, the departure tax liability could exceed the value of the property when the property is eventually disposed of or sold.

You may elect through a prescribed CRA form to defer the payment of departure tax resulting from the deemed disposition rule. Depending on the amount of tax you're deferring, you may be required to provide the CRA with adequate security.

Planning to reduce departure tax

RRSP contributions and charitable donations

Deductible contributions to your RRSP and donations to Canadian registered charities can reduce your tax liability in the year you cease residency. Assuming you have unused RRSP contribution room, an RRSP contribution can be deducted against capital gains realized as a result of your departure from Canada. To claim an RRSP deduction on your part-year Canadian tax return, you must make an RRSP contribution no later than 60 days after the end of the calendar year you cease Canadian residency.

Charitable donations should be made before the date you cease Canadian residency if you want to claim a donation tax credit for these donations on your part-year Canadian tax return. If you donate securities in-kind with accrued gains from your non-registered portfolio to a qualified donee (such as a Canadian registered charity) before you cease Canadian residency, you're not subject to departure tax on the securities donated. The accrued gain on these securities is exempt from Canadian tax and you may be able to claim a charitable donation credit on your Canadian part-year return for the FMV of the donation. For more information on donating securities, please ask your RBC advisor for a copy of the article on charitable donation of securities.

Elect to realize capital losses on exempt property

You can elect to realize accrued capital losses on Canadian real estate, Canadian resource property or timber resource property, or property used in a business carried on in Canada that you own. This type of property is ordinarily exempt from the Canadian deemed disposition rule. The election is made on a prescribed CRA form. Ask a qualified tax advisor for more information regarding the filing of this election.

You can use the capital losses to reduce the capital gains triggered on property that is not exempt from the deemed disposition rule. However, the losses realized under this election are limited to the gains realized under the deemed disposition rule.

Spousal attribution upon emigration

The Canadian spousal attribution rules generally prevent income splitting between spouses (for the purposes of these rules, a common-law partner is treated as a spouse). In general, where property has been transferred by one spouse to the other, any capital gain/loss or income earned on the transferred property will be attributed to the transferring spouse and will not be taxed in the hands of the recipient spouse. There is an exception to the application of these rules on capital gains triggered as a result of the deemed disposition due to ceasing Canadian residency. This may create an income splitting opportunity that may reduce your family's total tax liability. For example, if you're the higher-income earning spouse, you could transfer capital property with an accrued gain to your lower-income spouse at the property's adjusted cost base (ACB) before you both cease Canadian residency. Then, when you both cease Canadian residency, the gains triggered due to the deemed disposition rule on the property transferred to your lower-income spouse will not be taxable to you due to the exception to the spousal attribution rules. Instead, the gain will be taxed in your spouse's hands at a lower income tax rate. It is important to seek advice from a qualified tax advisor to determine whether you will benefit from this strategy.

Administration issues for investment accounts held in Canada

You should contact your financial advisor to discuss the status of your non-registered and registered investment accounts, including any changes that may be required as a result of your move. For example, you should understand any trading restrictions that may apply and any documentation requirements which may be imposed by your new country of residence. Your financial advisor should also be informed of the date of your departure as your change in residency impacts, among other things, the withholding tax applied to investment income earned in non-registered accounts as well as the tax slips that are issued to you.

If you're currently invested in Canadian mutual funds, you should be aware that generally, Canadian mutual fund companies allow you to continue to hold onto your funds once you become a non-resident of Canada, but some of them may require your funds to be redeemed. Also, you're generally not permitted to purchase a new fund or switch to other series of the fund while you're not a resident of Canada (so your only options as a non-resident is to hold or sell the funds).

Registered plans

RRSP and RRIF

RRSP and/or RRIF accounts do not need to be wound up when you cease Canadian residency. They can continue to grow tax-deferred. Provided you have RRSP contribution room, you can contribute to your RRSP as a non-resident of Canada; however, as discussed earlier, the contribution has to be made by the required deadline to claim a deduction on your part-year return. Contributions you choose not to deduct or that are made after the deadline can be carried forward. In general, making RRSP contributions that are not deducted on your part-year return is not tax-efficient, unless you have Canadian income subject to Canadian tax return filing requirement as a non-resident or if you plan to re-establish Canadian residency in the future and expect to claim the deduction at that time.

> Your RRSP and/or RRIF does not need to be wound up when you cease Canadian residency. They may continue to grow tax-deferred.

Home Buyers' Plan (HBP)/Lifelong Learning Plan (LLP)

Any outstanding HBP or LLP balances must be re-paid to your RRSP once you cease Canadian residency, or the unpaid amount must generally be included in your income and subject to tax for the tax year in which you became a non-resident.

Withdrawals from an RRSP/RRIF as a non-resident

Withdrawals from your RRSP/RRIF as a non-resident of Canada are generally subject to a Canadian non-resident withholding tax of 25%. However, many of Canada's tax treaties with other countries provide for a reduced withholding tax rate on withdrawals and some even provide for an exemption from withholding tax if certain conditions are met. For example, there may be a provision in a tax treaty that provides for a reduced withholding tax rate on periodic pension payments. A periodic pension payment is an amount withdrawn in a calendar year from a RRIF that does not exceed the greater of:

- Twice the minimum withdrawal required for the year; or
- 10% of the FMV of the RRIF at the beginning of the year.

For the purpose of calculating the periodic pension payment, where funds are transferred to a RRIF in a particular year, both the minimum amount and the FMV of the RRIF are determined on the assumption that the transfer took place immediately before the beginning of the particular year. This ensures that the RRIF minimum amount will not be nil in the first year of the RRIF. As well, the FMV at the time of transfer to the RRIF is used for the purposes of calculating twice the RRIF minimum amount and 10% of the FMV of the RRIF in the first year.

For many countries, the withholding tax rate on RRIF withdrawals is reduced through a treaty to 15% for periodic pension payments.

Locked-in registered plans

Your locked-in registered plans, such as a locked-in retirement account, locked-in retirement income fund, and life income fund, do not need to be unwound when you cease Canadian residency. They remain locked-in, even when you become a non-resident of Canada . However, you may be entitled to some "unlocking" relief. For example, you may be able to unlock and access the plan assets due to non-residency if the applicable federal or provincial pension legislation allows it.

For Canadian tax purposes, your locked-in registered plan remains tax-deferred until a withdrawal is made. When a withdrawal is made, Canadian non-resident withholding tax will be applied in the same manner as applied to RRSP/RRIF withdrawals.

You should consult with a qualified tax advisor in your new country of residence to determine whether that country recognizes the tax-deferred status of your RRSP/RRIF or locked-in registered plan, and how withdrawals from these plans are taxed there. You should also seek advice as to whether you can claim a foreign tax credit on your tax return in your new country of residence for any Canadian withholding taxes applied to the withdrawal to reduce the risk of double taxation.

Other registered plans (TFSA, RESP)

TFSA

Your TFSA does not need to be wound up when you cease Canadian residency. It remains tax-free for Canadian tax purposes. Provided you have contribution room, you can contribute to a TFSA up to the date you become a non-resident of Canada. However, no contributions are permitted and no contribution room will accrue while you're a non-resident of Canada for a full tax year. Any withdrawals made during the period that you're a non-resident will be added to your unused TFSA contribution room in the following year, but this room will only become available if you re-establish residency in Canada.

RESP

You do not need to collapse an RESP when a subscriber or a beneficiary becomes a non-resident of Canada. However, when a beneficiary becomes a non-resident, no further contributions can be made to the plan. The income earned in the RESP is not subject to tax for Canadian tax purposes until a withdrawal is made. If the beneficiary is a non-resident of Canada at the time they attend a

> Your TFSA does not need to be wound up when you cease Canadian residency. It remains tax-free for Canadian tax purposes. You can contribute to a TFSA up to the date you become a non-resident of Canada.

qualifying educational program at a post-secondary school level, income earned in the plan can still be paid to them provided certain criteria is met. Any grant or bond received in the plan prior to the beneficiary becoming a non-resident of Canada cannot be paid to them. For more information regarding the Canadian tax treatment of an RESP where there is a non-resident subscriber or beneficiary, ask your RBC advisor for an article on this topic.

You should consult with a qualified tax advisor to determine how both of these plans are taxed in your new country of residence and whether it makes sense to keep them while you're a non-resident of Canada.

Shares of a Canadian private corporation

Canadian tax treatment

Shares you own of a Canadian private corporation are subject to the deemed disposition rules when you cease Canadian tax residency and any unrealized capital gains and losses are triggered on your departure. If the shares qualify, you may be able to utilize your lifetime capital gains exemption to minimize or eliminate any gains triggered. It should be noted that the underlying property held by a Canadian private corporation is generally not subject to the deemed disposition rules.

When shareholders of a Canadian corporation become non-residents of Canada, there are a number of tax implications to consider. For example, if a Canadian controlled private corporation (CCPC) is no longer controlled by a Canadian resident(s), it loses its CCPC status and no longer qualifies for certain benefits such as the reduced tax rate on active business income up to the small business deduction and certain investment tax credits. As well, dividends paid from the capital dividend account (CDA) of the corporation to you, a non-resident, cannot be paid free of tax and may be subject to Canadian non-resident withholding tax. Even if a corporation does not lose its CCPC status, as a non-resident, you can no longer claim the capital gains exemption on the sales of your shares. Talk to a qualified tax advisor about tax planning options with respect to your corporation that could make sense before ceasing Canadian residency. For example, if you want the corporation to maintain its CCPC status, redeeming or selling your shares may be an option. In addition, you could clear out the CDA and any

other tax-favoured accounts that will no longer qualify for preferable Canadian tax treatment once you cease Canadian residency.

You should consult with a qualified tax advisor in your new country of residence to determine whether there are tax issues or considerations relating to being a shareholder of a foreign corporation.

Canadian real estate

Canadian withholding tax and filing requirements

As a non-resident, if you sell real estate located in Canada you're subject to Canadian tax. Initially, the purchaser is required to withhold and remit 25% of the gross sale proceeds to the CRA. You may apply to the CRA to request a 25% non-resident withholding tax be applied on the net capital gain as opposed to the gross proceeds of sale. To obtain this approval, you must make your request in advance of the sale or within 10 days of the sale. Ask a qualified tax advisor for advice on how to make the necessary tax filings.

The withholding tax is not your final Canadian tax liability. You're required to file a Canadian non-resident income tax return to report the taxable capital gain or loss on the sale and calculate your ultimate tax liability. On your Canadian tax return, you may deduct selling costs, such as legal fees and commissions, against your taxable capital gain. The tax that was withheld can be credited against any taxes payable, and any excess tax withheld may be refunded.

Principal residence exemption

When a Canadian resident sells real estate that qualifies as their principal residence, any capital gain realized as a result of the sale may be exempt from Canadian tax due to the principal residence exemption. The principal residence exemption is the topic of a separate article that you may obtain from your RBC advisor. When you're a non-resident and you sell real estate that previously qualified as your principal residence when you lived in Canada, the principal residence exemption may not fully shelter the capital gain on the sale of the property from tax. This is because you can only designate the property as your principal residence for the years that you were a Canadian resident at any time during the year. As such, some of the gain realized on the sale of the property may be taxable. Nonetheless, if this property qualified as your principal residence during the time you were a resident of Canada, it may be possible to request that the CRA reduce the amount withheld by the portion of the capital gain that would be excluded from tax by the principal residence exemption.

If the sale of your former principal residence results in a loss, you will not be able to utilize the loss. The loss is deemed to be nil because the property is considered "personal use property" (i.e. property that you own primarily for the personal use or enjoyment by your family and you).

When a Canadian resident sells real estate that qualifies as their principal residence, any capital gain realized as a result of the sale may be exempt from Canadian tax due the principal residence exemption.

You should consult with a qualified tax advisor to determine whether the sale of your real estate in Canada is taxable in your new country of residence.

Canadian employee stock options

If you have deferred the reporting of a taxable stock option benefit on previously exercised employee stock options, the deferral ends when you cease residency and you will be subject to Canadian tax on the stock option benefit. For unexercised options granted while you're a Canadian resident, you may be subject to Canadian tax on some or all of the security option benefit when you eventually exercise them as a non-resident. As the taxable amount is considered employment income, you're required to file a Canadian non-resident tax return.

You should consult with a qualified tax advisor in your new country of residence to determine the tax treatment of these stock options.

Life insurance policies

If you leave Canada, any interest you hold in a life insurance policy in Canada is not subject to the deemed disposition rule. However, an interest in a Canadian segregated fund life insurance policy is not exempt — you will be deemed to have disposed of the policy based on its FMV and will be taxed on any gain that results.

You should review your insurance needs as a result of your move to your new country with a qualified tax advisor. They can advise you of the potential tax issues in your new county of residence that may apply if you keep your Canadian life insurance policy.

Other tax and estate planning considerations

Canadian social security benefits

Canada and many other countries have social security agreements that aim to help individuals moving from one country to the other qualify for government-provided benefit programs from each country. For more information, please review the respective country's government website.

Wills and Powers of Attorney (POAs)

Moving presents an excellent opportunity to review and update your estate planning arrangements such as your Will and POAs. It's important to ensure you have a Will and POAs that are valid and recognized in your new country of residence. Your current choice of executors, trustees and attorneys may no longer be appropriate. You should have your Canadian Will reviewed by a qualified legal advisor to determine whether it will be recognized in your new country of residence and achieve your desired wishes or whether a new Will should be drafted. You will want a POA that outlines your wishes in managing your financial affairs in the event of incapacity. You may also wish to confirm what type of document can be used in your new country of residence to set out your wishes for medical care and treatment.

Conclusion

If you're contemplating moving from Canada to another country, you're strongly encouraged to contact your RBC advisor and a qualified tax or legal professional well in advance of your departure. Understanding the Canadian and new country's income tax and estate planning issues that apply to your particular situation will enable you to identify appropriate strategies to implement.

If you're contemplating moving from Canada to another country, you're strongly encouraged to contact your RBC advisor and a qualified tax or legal professional well in advance of your departure.

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Wealth Management

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