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Moving From **Canada to the United States**:

What You Need to Know

The U.S. presidential election in November of 2016 and 2020 led to much media focus on U.S. citizens looking to move to Canada. So much, in fact, that we prepared an article a while back entitled, Thinking About Moving to Canada? What You Need to Know.

As one moves from Canada to the United States or vice versa, a multitude of unique lifestyle, immigration, financial, tax and estate planning issues must be considered. Ideally, it is best to plan or be aware of these considerations prior to the move, not afterward. In this article, we will discuss some of the financial and income-tax implications you should be aware of when moving from Canada to the United States.

Residency for Canadian Income-Tax Purposes

Unlike the United States, Canada does not impose its income tax system based on Canadian citizenship. Income tax in Canada is based on residency—and thus it's important to understand how residency is determined.

Residents of Canada are liable to pay Canadian income tax on their worldwide income. Non- residents of Canada, meanwhile, are liable to pay Canadian tax only on income from employment in Canada, as well as rents, royalties, interest and dividends. They must also pay Canadian tax on income from sources in Canada including a business that carries on in Canada (while the recipient is a non-resident) and income from the disposition of taxable Canadian property.

To further complicate matters, the term “resident” is not directly defined in the Canadian Income Tax Act. Rather, it is based on common-law principles and is related to the kind and types of residential ties that one has or maintains in Canada.

To better understand how the Canada Revenue Agency (CRA) might view residency from a Canadian income tax perspective, you might want to review *CRA Income Tax Folio S5-F1-C1: Determining an Individual’s Residence Status*.

Whether your residential ties in Canada are sufficient for you to be considered a resident for tax purposes is generally a question of fact. Some of the factors that CRA would likely take into consideration include:

- Do you have a permanent home available to you in Canada?
- Does your family live in Canada? In this case, “family” typically refers to a spouse and/or children.
- Where are your social and personal ties, such as church, social clubs, professional organizations and so on?
- Where are your economic ties, such as employment or business operations, bank accounts, driver’s license, etc.?
- Have you established residential ties to another country, and are you resident in that country for tax purposes?
- Do you intend to return to Canada at a later date?

When we work with clients to properly document their intention to sever their residency from Canada, we recommend that they take the following actions:

- Consolidate your bank accounts by closing all unnecessary accounts and transferring all or a substantial portion of funds to a bank account in the United States. Once established in the United States and all cheques have cleared against the Canadian accounts, transfer the balances and close all Canadian accounts.

- Close your Canadian non-registered brokerage accounts and transfer the investments to a U.S. account, or liquidate if necessary. Given that Cardinal Point Wealth Management is licensed and registered in both Canada and the United States for investment management purposes, we can create much value for our clients in this area, including maintaining Canadian-dollar investment accounts in the United States.

- Advise all Canadian financial institutions with which you will have ongoing dealings of your move to the United States. They will begin to withhold non-resident tax from any investment income earned by you outside of your registered assets. The tax withheld under the Canada-U.S. Tax Treaty (0% for interest, 15% for dividends) represents your final Canadian tax obligation with respect to this income, and a Canadian tax return is not required to be filed to report this income. The same would apply to Canadian-source pensions (excluding Canada Pension Plan and/or Old Age Security).

- Apply for a driver's license in the United States as soon as possible, and then cancel your Canadian license.

- Cancel or change your professional memberships to non-resident status. Cancel your memberships to clubs and other organizations. An individual can retain membership in any professional organization on the basis that he is required to perform duties abroad without significantly impacting non-residency status. However, one should arrange for the membership status to be designated "non-resident" if possible.

- Sell or dispose of all personal possessions not accompanying you abroad. Where possible, it is preferable to avoid storing items in Canada, as the maintenance of personal property may be an indication that residency was not terminated.

- Cancel your credit cards with Canadian financial institutions and obtain cards with U.S. institutions.
- Terminate your Canadian healthcare and medical-insurance coverage.
- Maintain a personal file outlining your efforts to cease Canadian residency. The determination of residency status is not straightforward, and although one may have a strong fact pattern, CRA can always assert that individual facts and circumstances do not support the contention that you have ceased residency from Canada. A personal file containing this information may be vital in demonstrating to CRA that you have sufficiently severed your ties with Canada.

CRA uses a questionnaire, *Form NR73 Determination of Residency Status (leaving Canada)* to establish an individual's residency status. However, we recommend that clients not voluntarily submit this form to CRA. Once submitted, it can be difficult to change filing positions in Canada.

The Canadian Departure Tax

Upon departure from Canada, Canadian residents are generally considered to have disposed of most property, with exceptions as noted below, for deemed proceeds equal to the fair-market value of the property at that time. If the fair-market value of the property exceeds its cost base for income tax purposes, the individual must recognize a capital gain that is taxable in Canada on their final exiting Canadian tax return. You have the option of paying the tax on those gains, from the deemed disposal, when you file your tax return for the year you leave Canada. Or you can provide security (if required) to CRA, to defer payment until the property is sold.

Canadian real estate, stock options, certain employer-sponsored pension plans Registered Assets (RRSPs, RRSPs, LIRAs, etc.) and TFSAs will not be subject to the departure tax, as there are specific exclusions in the rules for these types of assets.

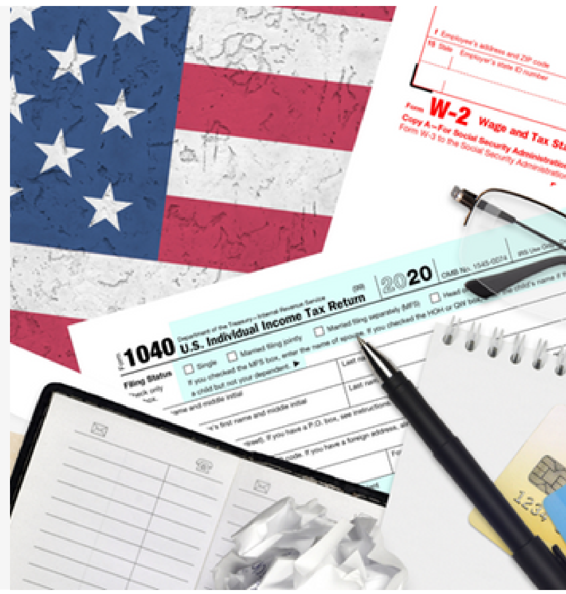
For the most part, non-registered investment assets, including shares within Canadian business interests and certain trusts, would be considered deemed sold as of your departure from Canada. Further, if you owned any U.S. real property for investment or personal purposes, this would be subject to Canadian Departure Tax as well.

A requirement to file CRA Information Forms T1161 – List of Properties by an Emigrant of Canada and T1243 – Deemed Disposition of Property by an Emigrant of Canada would need to be included with your final return to CRA for the year of departure. Depending on the fair-market value of assets upon departure and/or the amount of deemed gains, these forms, and the requisite tax (or the posting of adequate security), might not be required.

We assist all of our clients in obtaining the necessary documentation to support the fair-market value of all of their assets on the date they cease residency for reference purposes. It is generally easier to gather this information at the time of their departure as opposed to when Canadian tax returns are prepared for the year of departure.

U.S. Income-Tax Considerations

The United States does not have a deemed-acquisition valuation when an individual enters the country for tax purposes. For this reason, an individual who sells appreciated property after entering the United States is subject to tax on the whole gain, not just the portion attributable to the period of residence in the United States. This can result in double taxation, first the Canadian departure tax and then U.S. capital-gains tax upon the sale of the assets while in the United States.



As we alluded to earlier in this article, there are still a number of factors that need to be addressed and reviewed upon a departure from Canada. These include immigration planning, currency exchange, tax preparation, compliance and planning, a comprehensive review of health and risk management programs, the consolidation of investment and retirement accounts and management, estate planning and much more.

At Cardinal Point, we are fortunate in that we provide a Comprehensive Wealth Management Solution that meets our clients' specific and unique needs. The majority of our advisors actually live and work in both countries, and are recognized as leading experts in Canada/U.S. financial planning. If you are considering a move to the United States from Canada, we would encourage you to request our White Paper, Manage Your Canada – U.S. Cross Border Lifestyle and/or reach out to us directly by click the button below.

Contact Cardinal Point for more information

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