Deemed Departure
Tax Canada

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Understanding the Tax Implications: Deemed Departure Tax for Canadian Residents Moving Abroad

If you are currently a Canadian tax resident who is thinking of leaving Canada to move to another country, you should consider the tax implications of the Deemed Departure Tax Canada. At a high level, the Deemed Departure Tax Canada is a deemed disposition of all of your assets (other than those assets which are eligible to receive an exemption) for their fair market value (FMV) immediately before the end of your Canadian tax residency. The Canadian Deemed Departure Tax was introduced to maintain Canada's right to tax any gain that was earned during your Canadian residency period. It was originally established after a prominent family left Canada with significant gains that were not taxed upon their departure.

Exceptions to the Deemed Departure Tax

There are five general asset exceptions to the Deemed Departure Tax Canada:

1. Real property and resource property situated in Canada
2. Capital property used in a business carried on by the taxpayer through a permanent establishment in Canada
3. “Excluded right or interest” (defined under the Income Tax Act of Canada), including: RRSPs, RRIFs, IRAs, pension plans, and life insurance
4. Employee security/stock options
5. Assets subject to the “short-term resident” rule. This entails property owned when you last became a tax resident of Canada or property you inherited after you last became a tax resident of Canada if you were a tax resident for 60 months or less during the 10-year period before you ceased Canadian tax residency.

Departure Tax Filings

In your year of departure from Canada, ensure that you report your Date of Departure on your T1 – Income Tax and Benefit Return. This informs the Canada Revenue Agency (CRA) that you are no longer a Canadian tax resident. You may also need to complete the following information forms along with your T1 Departure Return:

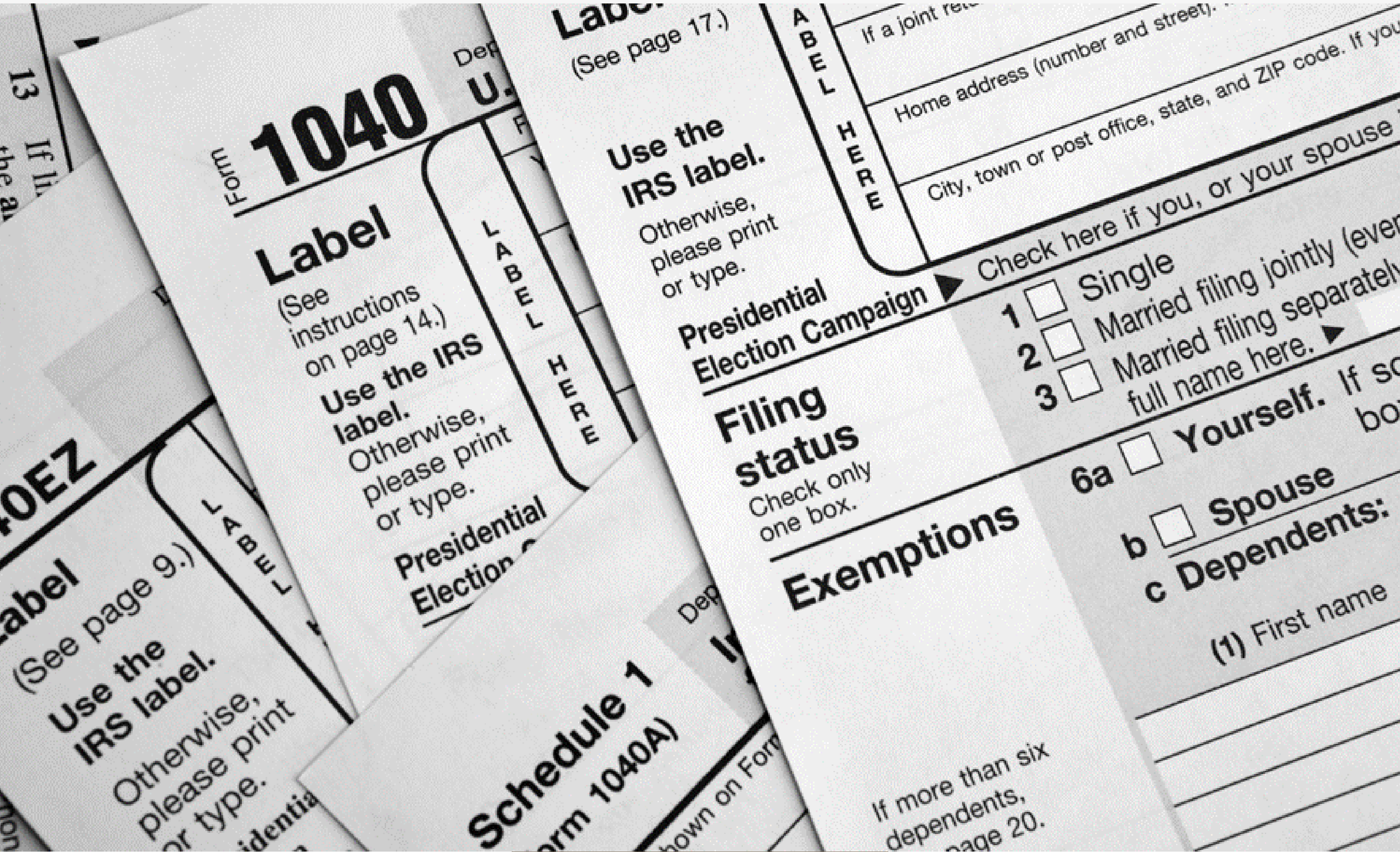
- **T1243 – Deemed Disposition of Property by an Emigrant of Canada**
  - This form reports the deemed disposition of assets as a result of the Canadian Deemed Departure Tax
  - This form is completed in addition to listing the deemed dispositions of these assets on Schedule 3 – Capital Gains (or Losses)
- **T1161 – List of Properties by an Emigrant of Canada**
  - This form is to be completed where the FMV of all "reportable properties" at date of departure is > $25,000 CAD

- “Reportable properties” include any property other than:

  - Cash (including bank deposits)
  - Property that is an “excluded right or interest” (defined under the Income Tax Act of Canada), including: RRSPs, RRIFs, IRAs, and pension plans. Note that subparagraphs (c), (j), and (l) of the definition of “excluded right or interest” per the Income Tax Act of Canada are excluded for purposes of the T1161.
  - Property owned at time last became resident of Canada, if resident for 60 months or less during the 120-month period that ends at the time of departure
  - Personal-use property (clothing, household goods, cars, collectibles) with FMV < $10,000

- This form should include:

  - Shares and mutual funds
  - Bonds and debentures
  - Real estate (Canadian AND foreign – including any U.S. seasonal or personally owned property)
  - Stock options
  - Interests in trusts, partnerships, and life insurance policies



Canada-U.S. Tax Treaty – Article XIII (7) Election

If you are departing Canadian tax residency and subject to the Canadian Deemed Departure Tax, you can elect to have sold and repurchased property at FMV for U.S. tax purposes prior to emigration from Canada. For a U.S. resident individual, this election accelerates U.S. tax but allows a foreign tax credit to be claimed on the U.S. tax return for the amount of Deemed Departure Tax Canada paid. For a non-U.S. resident person, this election adjusts the U.S. cost basis of the assets subject to the Canadian Deemed Departure Tax to their FMV on date of departure from Canadian tax residency.

Other Possible Elections

There are various loss elections, payment deferral elections, and former resident elections that can be made to reduce or reverse the Canadian Deemed Departure Tax. These are beyond the scope of this ebook, but we are happy to discuss the applicability of these elections to your individual situation.

Conclusion

Quantifying your Canadian Deemed Departure Tax can be a difficult task. This is further complicated by the various exemptions and elections available. It is best to review your unique situation with a qualified cross-border tax advisor and financial planner as soon as you consider a move from Canada and well ahead of the actual move date. There may be opportunities to structure your financial affairs before being subject to the full Deemed Departure Tax Canada or opportunities to better structure yourself after leaving Canadian tax residency.

Contact Cardinal Point for more information

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