

# Canada-US Cross-Border Planning Toolkit

- Uniformly managing your unique needs



## ***The Following Statements Describe Various Scenarios Highlighting Canada & U.S. Cross-Border Planning Issues That Routinely Arise. Please Check All Scenarios Below That May Apply To You:***

- You are a US citizen/Canadian resident wanting to transfer properties/securities that have appreciated, to a non-US (i.e. Canadian) trust or estate. [such transfers are explored for those individuals residing in Canada and wanting to mitigate future Estate issues].
- If you are a US person, resident in Canada and you have a capital gain emanating from the sale of US capital property, you may be eligible to offset Canadian income taxes by claiming a foreign income tax credit. However, it may be that your US\$ denominated investments decline due to currency fluctuations. This will reduce your foreign income available to report on your Canadian income tax return. [such currency issues can be addressed through a unified cross border investment strategy incorporating both Cdn. and US components].
- If you are a US citizen/resident and are about to return to Canada, unrealized gains on your home are best realized before leaving the US for Canada. The U.S. doesn't recognize the Canadian principal residence exemption and Canada doesn't recognize the U.S. \$500,000 married tax exemption on a U.S. personal residence.
- When leaving the U.S. to move to Canada, the historical cost of your property may need to be recognized by some transaction. Conversely, when leaving Canada, you are deemed to have sold most of your of your property, thereby establishing a new cost base. For RRSP/RRIF investments, such a step-up in cost basis needs to be manually effected.
- The establishment of non-U.S. trusts or corporations may be scrutinized by the IRS. For instance if the beneficiary of a trust has the ability to encroach upon capital, the IRS could deem the trust assets as belonging to the beneficiary. [if you are planning to permanently domesticate in Canada and give up U.S. citizenship, you must meet the expatriation tests].
- The establishment of trusts (i.e. spousal trusts) and the subsequent movement of assets to such a trust should be explored prior to a move to the US by a Canadian.
- If you are contemplating taking up residency in Canada and have a U.S. retirement arrangement (401K, 403B) or Individual Retirement Accounts (IRA), it is possible to transfer these benefits to Canada on a tax-deferred basis. Such a transfer should be considered after reviewing several factors including age, U.S. estate exposure and currency risk. In our experience, the transfer of such retirement plans across the border is not always necessary as we have the capability of managing both Canadian and U.S. retirement arrangements, within the respective host country.
- U.S. citizens living in Canada should be careful and seek competent legal advice in planning their Canadian estate, especially if they still have family members living in the US.

- If you are an employee or employer contemplating work for a Canadian subsidiary in the US, there are implications of the Totalization agreement with respect to US Social Security and the Canada Pension Plan. Relief can be provided where the Canadian works for the subsidiary in the US for less than 5 years. It is more complex for an American working in Canada.
- The recent 5<sup>th</sup> Protocol changes contain many new streamlined benefits including: contributions to a retirement plan (RRSP contributions by Canadians and IRA contributions by Americans) may be deductible in the country of origin. (i.e. a Canadian working for a company in the US makes an IRA contribution, which also can be used as a “contribution” on his/her Canadian income taxes just as if he/she had made an RRSP contribution in Canada).
- You are an American citizen residing in Canada or a Canadian resident in the U.S. You presently have both RRSP/RRIFs and cash accounts in Canada, and IRA/401K/403Bs and cash accounts in the U.S. that are managed separately. [your risk profile and investment policy should address all of your assets necessitating a unified mandate]
- If you are an employee or executive with accumulated stock option entitlements in one country, but then move or transfer to the other country – prior to the

exercise of those options, an Equity Monetization Strategy should be considered.

As a significant key person within an organization, you may require investment solutions that improve liquidity. With much of your financial wealth tied to the company through share ownership and stock options, your investment options may at times seem restrictive, perhaps even preventing optimal investment diversification.

An equity monetization strategy can allow for greater financial flexibility through an efficient restructuring of your equity holdings. As a key stakeholder in a public company, diversification presents a real challenge since much of the financial wealth is concentrated with one company. Equity monetization is a mechanism that allows for a reduction in exposure to the single equity position in a tax-efficient manner, without disposition of the stock. While the value of your investment is hedged for a specific period at a specific price, your account can then be structured according to your unique liquidity and financial circumstances.

The key benefit of the equity monetization strategy is the elimination of the stock market risk in your portfolio without the pitfalls associated with an outright sale of the securities. Further, voting rights and legal title of stock are still retained by you, as is the right to receive potential future dividends from your securities.

## Cross Border Client Profile

Name: \_\_\_\_\_ Spouse’s Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State/Prov.: \_\_\_\_\_

Postal/ZIP Code: \_\_\_\_\_ Email: \_\_\_\_\_ Date of New Residency or Expatriation: \_\_\_\_\_

- YES     NO    Did your marital status change during the year?
- YES     NO    Did your spouse live apart from you during the year? If so, did your spouse reside in     CANADA?     U.S.A.?
- YES     NO    Are you anticipating receipt of, or did you initiate any cash gifts of more than \$12,000?
- YES     NO    Have you filed IRS form 8840 Closer - *Connection Exception Statement For Aliens*?
- YES     NO    Do you have management or control of a Trust that is resident in:     CANADA?     U.S.A.?

For tax purposes, are you a deemed resident of     Canada,     a deemed resident alien of U.S.A,     a US citizen,     your spouse is a US citizen?

*All information contained in this report is for general discussion purposes and no part of this report is intended as tax or legal advice. All recipients of this report are strongly urged to consult with a competent legal or tax professional prior to taking any action. If you do not have such a professional, we can certainly recommend qualified professionals in your area.*