

Moving to Canada?

Understanding your cross-border investment & financial planning challenges



When moving to Canada from the US, there are common challenges that individuals often face. These challenges arise from differences in taxation, reporting requirements, and the regulations that oversee one's investment portfolio. As a result, competent cross border legal, investment management, and tax professionals should be sought prior to your departure in order to minimize your tax liabilities and other complications that may arise when in Canada.

This document is intended to assist you in understanding some of the challenges that you may face when relocating to Canada and to provide guidance as to what issues you should discuss with your investment, legal, and tax counsel.

Prior to Relocating to Canada

- US citizens and green card holders are required to file IRS tax returns on their "worldwide income" – this includes income earned in Canada. Therefore, if you are planning to stay in Canada indefinitely, consider filing IRS form 8854, "Expatriation Information Statement". Despite the advantages of doing this, there are complications that can arise so seek competent legal counsel.
- Be aware of notable tax differences – some of which are outlined as follows: In British Columbia you must file a federal tax return by April 30th. Note, there are fewer deductions available to reduce your personal taxes than in the US, however, healthcare and payroll costs are a lower portion of your taxes in Canada; same sex marriages and common-law marriages are recognized.
- The foreign earned income exclusion is approximately \$91,000 USD. If you anticipate your income while in Canada to be considerably greater, consult a tax professional to reduce your overall tax burden – for

example, consider a strategy that maximizes foreign tax credits in order to reduce your future taxes.

Your Registered & Investment Accounts

- Government securities regulations commonly prevent Canadian residents from managing their investments that remain in the US. Therefore, investment accounts such as 401K, 403B, IRAs, among others, are "frozen" and thus cannot be actively managed while you remain resident in the US. To overcome this, an investment management firm with specific cross-border expertise should be sought.
- Foreign Bank Account Reports (FBAR) must be filed by US residents before June 30th of each year for foreign accounts valued at \$10,000 or greater. The prescribed IRS form is called TD F 90-22.1. You must file this form even though you may be resident in Canada as you are still deemed by the IRS to be a "US person".
- If you are on a temporary relocation of less than 5 years in Canada, it may be advisable and possible, to continue with contributions to IRA, 401K, or 403B plans while resident in Canada.
- Canadian Registered Retirement Savings Plans (RRSPs) are similar in structure to US IRA accounts.
- Contributions to RRSP accounts are more flexible and greater than what IRAs afford. Contributions are 20% of the prior year's earned income to a maximum of \$22,000 (2010), less pension adjustments.
- Canadian Tax Free Savings Accounts (TFSA) are similar in structure to US ROTH IRA accounts.
- Canada does not recognize ROTH plans the same as in the US, and you may need to report your ROTH income in Canada. Likewise, the IRS and some States do not recognize RRSPs, and you may need to report

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your RRSP income to the IRS. However, there are notable exceptions and exclusions that are available.

- Normal retirement age for pension plan purposes in Canada is 65, whereas in the US it is 62.
- Care should be taken with respect to joint accounts. In the case where one spouse is Canadian, US citizens would still be subject to gifting rules. Joint accounts often complicate taxation matters thereby requiring diligent record keeping.
- You may qualify under the 2009 Canada-US Tax treaty changes to receive certain tax credits. Some of the available credits that may be available include: company pension plan credits; Social Security transfer credits; as well as deductions for IRA contributions while a Canadian resident.
- Certain types of investment income are more suited to specific accounts. For example, dividend bearing investments are better suited for US non-retirement accounts; income trusts are more suited for Canadian investment accounts. Assistance may be required in structuring both your Canadian and US portfolios.
- Canadian mutual fund investments are structured differently than in the US. Great care and planning should be undertaken so that Canadian mutual funds purchased by a US citizen do not fall into the category of Passive Foreign Investment Corporations (PFICs), which would attract as much as 45% tax on earnings.
- If you are eligible and qualify for a pension in either Canada or the US, you will receive it. Planning should be undertaken if you have between 10 and 30 years of Social Security contributions (40-120 credits). It may be possible to be granted "status" for the Federal pension plan contributions in one country, as if you had worked the entire duration in the other country.

Trusts, Estates & Long-Term Planning

- There are distinct differences in how the two countries view the proceeds paid to a beneficiary upon the death of a life insurance policyholder. If the insured individual and owner of a policy are the same, there could be estate tax implications. In addition, only certain Canadian life insurance policies will qualify for the purposes of establishing an Irrevocable Life Insurance Trust (ILIT). A careful review of all life insurance policies should be carried out.
- US estate taxes are set to undergo changes through to 2011. The tax implications would affect worldwide assets of US individuals, and the exclusion limits are expected to decrease from \$3.5 million currently to about \$2 million in 2011. This potential estate tax

burden can be reduced or avoided through the use of trusts (US and Canada) and holding corporations (Canada). It may be appropriate to consider establishing a trust.

- One should review and seek legal professional advice with respect to Canadian trusts. Canada views trusts as distinct taxable entities. Any income within a trust is deemed taxable at high marginal rates. As well, distributions from Canadian trusts to US beneficiaries can be complicated.

Returning to the US

- Canada has a deemed disposition of capital property upon giving up residency. The principal residence exemption is available subject to certain rules. If you have a significant gain on your residence, it may make sense to sell your home within 2 years after moving back to the US.
- RRSPs cannot be transferred to the US; however, any eligible pensions could be transferred to locked-in plans and then subsequently unlocked once abroad for more than two years.
- Charitable donation deduction is greater in the US. If you are contemplating a charitable donation in your Will, consider gifting US stocks and bonds as part of your donation (whether held in Canada or the US).
- If you had opened a Tax Free Savings Account while resident in Canada, be sure to top up the contributions prior to returning to the US. In addition, "step up" the cost basis of the plan through a sale/re-purchase or asset swap. Contact us for more details on how to "step up" the cost basis of your investment accounts.
- In planning for a return to the US, the company pension and Canada Pension Plan (CPP) benefits that you may have accrued and earned need to be reconciled. In some cases, it may be beneficial and possible to transfer these credits. Sometimes these plan benefits can be merged into an "expat promise" package. Enquire with your company's HR department or contact us for more information.

Notes and Disclosures

The information provided in this brochure was compiled in January 2010 by Pacifica Partners Capital Management. Due to the dynamic nature of taxation rules and reporting requirements the information is subject to change without notice. It is always advised that individuals seek competent cross border legal, investment management, and tax professionals to address each of the items indicated above as it pertains to their personal situation. As such, the information contained here should be considered for general discussion purposes and no part of this report is intended as tax, legal, or investment management advice. To request the latest version of this report please email: crossborder@pacificapartners.com