

# Moving to the US?

## Understanding your cross-border investment & financial planning challenges 2010



When moving to the US from Canada, 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 the US.

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

### Prior to Relocating to the US

- If you plan to spend considerable time in the US but ultimately intend to return to Canada, consider the Canadian tax implications of unrealized gains and US estate tax on your worldwide assets. In certain situations, it may be beneficial to establish a trusts or holding companies – see below.
- If you plan to keep your RRSPs in Canada, consider a “step-up” in the cost basis. This “step-up” will increase the cost base of your RRSPs to the current market value and by doing so, may avoid capital gains taxes on your RRSPs while in the US. The step-up should be carried out prior to moving to the US.
- Understand that while residing in the US the management of your Canadian investment accounts (eg. RRSP, TFSA, RESP) will face restrictions due to securities regulations. A dually licensed investment manager is required to actively manage both your US and Canadian domiciled investment accounts.
- Be aware that it is often difficult to arrange financing and credit while in the US as a new resident. We can assist in establishing dual country credit cards,

mortgages, and chequing accounts in addition to cross-border investment management.

- Consider whether you need to complete a Canada Revenue Agency NR-73 from, “Determination of Residency (Leaving Canada)”. Your Tax Advisor can assist you in completing the form. If you require a copy of the form or more information, please contact us.

### Your Registered & Investment Accounts

- By June 30<sup>th</sup> of each year the Treasury Department requires Foreign Bank Account Reports (FBAR) to be filed by US residents with foreign accounts valued at \$10,000 or greater. The prescribed form is called TD F 90-22.1
- With respect to stock option plans, certain public companies can assist their employees in implementing “stock monetization strategies”. Equity monetization helps reduce portfolio concentration and increases liquidity by reducing your exposure to a single stock in a tax efficient manner – without selling the stock. Your HR department should be able to provide you with more information. We can also provide help in monetizing large equity positions in your portfolio in a tax efficient manner.
- You should structure your investment portfolio by taking into account the tax treatment of the underlying investments, in both countries. Certain types of investment income are more suited to specific accounts. For example, analyzing whether dividend bearing investments are better suited within US or Canadian non-retirement accounts; short-term capital gains are more suited for Canadian investment accounts. We can assist in your portfolio structuring and management.
- Accurate record keeping of foreign exchange rates as well as investment transactions and incomes are essential for IRS tax reporting. We provide our cross-

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border clients with comprehensive reporting to assist in fulfilling their tax reporting requirements.

- It is also important to address portfolio risk migration when managing cross border investment accounts. This occurs when the overall portfolio is being managed separately in each country without regard as to how underlying investments in each country interact and influence the total portfolio. This can lead to risk migrating across portfolios without any one person having responsibility or control. It is best to task someone with overall portfolio responsibility.
- If you are being transferred to a US subsidiary of a Canadian company, enquire with your HR department about: Cross-border group-RRSPs; CPP and company pension plan credits; Social Security transfer credits; timing (impact) of stock options; and Deferred Compensation Arrangements (DCA). The 2009 Tax Treaty changes provide for increased unification and credits for employees.
- Completing IRS form 8891 enables you to defer tax on your RRSPs until you withdraw income. However, you must maintain and report annual income and distributions inside your retirement accounts. The problem is that tax slips are normally not issued for income and distributions within an RRSP. In addition, several states such as California do not recognize Canadian retirement accounts. Co-ordinate the appropriate forms with your Tax professional.

### **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 non-US (Canadian) trusts or family holdings companies. In some situations the IRS could deem the trust assets as belonging to the beneficiaries – which has tax implications. We can provide access

to trusted legal experts for your tax and estate planning needs.

### **Returning to Canada**

- The US enacted legislation in 2008 that impacts Green card holders who decide to return to Canada. Those affected Canadians must ensure that the appropriate steps are taken in order to avoid being taxed on worldwide assets prior to returning to Canada. Taxes would be applicable on any unrealized gains on property held by a Canadian green card holder (including retirement accounts and Canadian property). Such individuals should make preparations in advance. Please contact us for more information.
- Any unrealized gains on your US residence are best realized before leaving the US for Canada. The US does not recognize Canada's principle residence exemption and Canada does not recognize the US \$500,000 Married and Filing Jointly (MFJ) tax exemption on a US personal residence.
- If you are a member of a 401k / 403b plan and are returning to Canada, before leaving the US establish an IRA into which you can roll your retirement plan assets. If it is deemed prudent to transfer your US pension to Canada, it is difficult to establish an IRA and arrange for a transfer from a 401k plan after you have moved to Canada.
- In planning for a return to Canada, any company pension and Social Security benefits that you may have accrued need to be reconciled. It may be beneficial and possible to transfer these credits. Depending upon the tax ramifications, in our experience, it is not always the best policy to transfer these earned benefits to Canada. 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.
- If you have a spouse who is a non-Canadian resident, it may be possible to establish an Immigration trust. An I-Trust would enable the non-resident moving to Canada, an opportunity to earn income and capital gains tax free for a period of up to five years.

### **Notes and Disclosures**

The information provided in this brochure was compiled in January 2010 by Pacifica Partners Capital Management. Due 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](mailto:crossborder@pacificapartners.com)