



## Emigration A Taxing Affair...

With growing globalization, taxpayers are more frequently moving from country to country, chasing various career opportunities around the globe. Whether your move abroad is driven by professional reasons or personal ones, the tax consequences of emigrating from Canada should be taken into consideration prior to any decision being finalized. Some taxpayers may be in for a few surprises.

### Residency Status

A change in residency triggers various tax consequences and therefore must be planned properly. While residency is a question of fact, it is possible to plan a move abroad so as to ensure that the best possible tax outcome is achieved.

As Canada is a high tax jurisdiction, quite often, the countries to which taxpayers are emigrating have lower tax rates. As it is often the intention of taxpayers to emigrate and be free of Canadian tax, it is important that all ties with Canada be broken in order to validate a non-residency filing position.

The Canadian Revenue Agency (CRA) looks at various factors to determine whether or not you are a Canadian resident.

- The primary factors are:
  - ✓ Your dwelling;
  - ✓ Your spouse or common-law partner;
  - ✓ Your dependents.

While these are the main factors used in determining residency, items such as a Canadian driver's licence or

Canadian health card can be seen as ties to Canada. It is therefore important that these items be properly remitted to the Canadian authorities and that the foreign equivalents be obtained. These are secondary ties which can be used by CRA to determine your residency.

- Other secondary ties include:
  - ✓ Personal property in Canada;
  - ✓ A Canadian passport; and
  - ✓ Social and economic ties.

### Implications of Becoming a Non-Resident

A change in residency triggers many consequences, impacting everything from health care coverage to income taxes.

The Income Tax Act has laws in place that trigger the deemed disposition of many assets upon departure from Canada, thus taxing any inherent gains in the property you own. This includes all inherent gains and losses on securities within investment accounts.

Taxpayers are responsible for determining the fair market value (FMV) of all their assets and investments, outside of their RRSPs, as of their date of departure. Depending on the type of assets, the FMV may be more or less available or easily determinable. Taxpayers must undertake a "reasonable effort" in determining the FMV of their assets. This may include the costs of formal valuations.

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The main exceptions to the deemed disposition rule are Canadian RRSPs and Canadian real property. RRSPs are not deemed disposed of but rather will be taxed on withdrawal. As for Canadian real property, in accordance with the Income Tax Act, any gains will be taxed on the eventual disposition.

## Filing Obligations in Year of Departure

You will be required to file a final tax return with the Canadian authorities for the year in which you become a non-resident. The tax return will need to indicate the date your residency changed, report your worldwide income until the date of departure, and report the disposition of all relevant assets. If you own more than \$25,000 in Canadian assets, other information forms will be required.

The return is due on or before April 30 of the following year, as is the case with normal Canadian personal income tax returns. All deductions and credits normally available to Canadians will be available up to your date of departure, some of which will be prorated for the residency period.

One significant cost Canadians normally look at deducting is the cost of moving. However, under Canadian tax law, this deduction is normally not available for moves abroad.

## Deemed Departure Rules and Impact on Foreign Taxes

An important aspect to note with respect to future foreign tax return filings is that not all countries currently recognize the deemed disposition of assets on departure, and consequently, there is no change in the assets' cost base for foreign tax purposes. This can create a mismatch with respect to foreign tax credits (FTCs) or double taxation in the case of capital gains, as the CRA will tax the gain on the departure date, while the foreign authorities will only tax the gain upon the actual disposition, which can occur years after Canadian taxes have been levied.

It is important to evaluate if the deemed disposition of all your assets will trigger a net gain or loss. Should a net gain be triggered on departure, you should consider realizing gains to the extent of this net gain in order to avoid the FTC mismatch, thus avoiding future taxation in the foreign jurisdiction on the disposition of these assets and the potential for eliminating the double taxation.

## RRSPs

Canadian RRSPs are tax deferred retirement arrangements and are legislated under Canadian law. However, not all countries recognize and accept the Canadian tax treatment of RRSPs. Some jurisdictions tax the income earned within the RRSP on an annual accrual basis, which can cause cash flow issues. Any Canadian emigrating from Canada should verify how the emigrating country treats Canadian RRSPs and any tax impacts it may have.

## Future Canadian Tax Filing Obligation

Non-residents of Canada are only subject to Canadian tax on their Canadian source income. A number of types of Canadian sourced income are taxed at source and subject to withholding taxes. In such circumstances, there are often no Canadian income tax filing requirements as the Canadian tax obligation has been fulfilled by the withholding tax.

However, this is not always the case, employment or business income earned in Canada, as well as the disposition of Canadian capital property will be subject to Canadian income tax under the regular tax system and a tax return will be required. In most other situations, upon becoming a non-resident, Canadian tax filing obligations will cease.

The withholding tax rates which apply to most Canadian sourced income will vary depending on your new country of residency and the existence of a treaty between that country and Canada. The taxes withheld by Canada are normally credited against the taxes payable in your new

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country of residence in accordance with that country's income tax laws.

## Summary

Emigrating from Canada will trigger many income tax consequences, the most common of which have been discussed above. It is important that your personal situation be evaluated prior to committing to a move abroad, and it should be discussed with your Collins Barrow tax advisor to ensure all aspects have been considered.

A move abroad creates a certain level of stress and anxiety, which should not be increased by tax matters. Let your Collins Barrow tax advisor help make this transition as smooth as possible.

## Our US Tax Specialists are:

**Ken Tammadge**, CA, CPA (ILL.) is a Partner of the firm and brings over 30 years of professional expertise in providing services to entrepreneurial clients on a variety of tax issues in the areas of business succession, estate and retirement planning as well as cross-border tax issues.

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**Sylvain Campeau**, CA, CPA (ILL) is a Senior Tax Manager in the firm and a specialist in income tax, business reorganization, scientific research and development and cross border tax issues.

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