



Dear Valued Clients,

TAX CONSIDERATIONS FOR CANADIANS GOING DOWN SOUTH

CRA recently issued a pamphlet entitled “Canadian Residents Going Down South” just in time for the migration of Canadian “Snowbirds” to the sunny south.

Following are some of the highlights:

CANADIAN RESIDENCY

Snowbirds who maintain residential ties (eg. a home, spouse and property i.e. car, furniture) to Canada remain factual residents of Canada for income tax purposes and are taxed in Canada on their worldwide income, whether away from Canada or not.

FOREIGN REPORTING FOR CANADIAN PURPOSES

In addition to more common tax reporting, for Canadians owning foreign property, a special form needs to be completed and attached to your Canadian tax return if you:

- owned foreign property with a total cost of CAN\$100,000 at any time in the year;
- loaned or transferred property of any kind to a non-resident trust either in 2010 or a prior year; or
- are a beneficiary of a non-resident trust and in 2010, received property from or had outstanding debts to the trust.

Any rental income and expenses for a US property are reported on your Canadian tax return.

HEALTH INSURANCE

Caution is required to ensure you continue to qualify for provincial government provided health care. Before leaving Canada, one should check whether your provincial health plan continues your coverage while you are in the United States. An option is to purchase additional health coverage through a private health services plan. Premiums to most of these plans are tax deductible as are US medical expenses if you happen to become ill while away.

US RESIDENCY

Spending time in the US may require you to file a US tax return and to pay US tax. The extent of US taxation depends on whether you are a resident alien or non-resident alien for US tax. A resident alien normally pays US tax on worldwide income. Non-resident aliens pay US tax only on US source income subject to exceptions under the Canada-US tax treaty. State and city income taxes may be payable as well.

To be considered a resident alien, you must meet the substantial presence test. The test can be met in any given year if you were in the US for more than 183 days in the year or if you were in the US for

more than 31 days in the current year and the total number of days spent in the US in the current year and in the two immediately preceding years total at least 183 days.

If you spend less than 31 days in the US in the current year or less than 183 days in the current year and the previous two years on a combined basis, you may be a non-resident alien.

In determining one's status, it is necessary to understand the approach taken in determining the number of days. Current year days count as full day, the immediately preceding year days count as one-third of a day and the second preceding year days count as one-sixth of a day.

Here is an example of the calculation of the number of days:

Year	Days of Physical Presence	Multiplier	Testing Days
2010	70	1.00	70
2009	180	0.333	60
2008	120	0.167	20
Total			150

EXEMPTIONS FROM US TAX

Closer Connection:

Resident aliens are able to change their tax status to non-resident aliens where they meet the closer connection to Canada test and file Form 8840, Closer Connection Exception Statement for Aliens with the US Internal Revenue Service by June 15th of every year. When otherwise meeting the substantial presence test, one can qualify for non-resident alien status if they:

- spent less than 183 days in the US in the year;
- made a tax home in Canada; and
- had a closer connection to Canada than to the US, in the year.

Employees and the self-employed have their tax home where their principal place of employment or business is located. For all others, their tax home is where they normally live.

One must have a number of the following located in Canada to have a closer connection to Canada than the US:

- home, family;
- employment or self-employment;
- personal property (cars, furniture);
- memberships to social, religious or cultural associations; and
- driver's license registration.

Canada-US Tax Treaty:

Residents of Canada may also qualify for relief from US tax under the Canada-US tax treaty.

In cases where you are a resident of both Canada and the US for income tax purposes under each country's laws, you may obtain relief from US taxation where you maintain a permanent home in Canada or if your personal and economic ties are closer to Canada than the US.

OTHER US TAX CONSIDERATIONS

There are also a number of issues that Canadians need to be aware of and where tax may be payable such as when they:

- receive rental income from a US real estate;
- sell US real estate;
- Have property subject to US estate tax upon their death
- have US gambling or lottery winnings.

US TAXPAYER IDENTIFICATION NUMBERS

Taxpayers with US Social Security Number must use that US Social Security Number for identification purposes on their US tax return. Unless authorized to be employed in the US, non-resident aliens are generally not eligible for an US Social Security Number and must apply to the IRS for an IRS Individual Taxpayer Identification Number (ITIN). Form W-7, *Application for IRS Individual Taxpayer Identification Number* is used to apply for an ITIN.

Professional tax advice is recommended to deal with complex US tax matters.

Please feel free to contact us with your questions and comments.

Regards,

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