RBC Wealth Management

the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

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Moving from Canada to the U.S.

Key tax and estate planning considerations

You're moving to the U.S. — perhaps for an employment opportunity or maybe you're tired of Canada's winters and want to live or retire somewhere with a warmer climate. For whatever the reason(s), it's important to be aware of the tax and estate planning issues that may arise as a result of your move and any planning opportunities you may be able to utilize to eliminate or minimize any tax implications.

This article summarizes common Canadian and U.S. tax and estate planning issues and considerations for Canadian residents who cease Canadian residency and move to the U.S.

This article is intended for Canadian resident individuals who are not U.S. citizens or green card holders. Unless otherwise stated, this article only addresses Canadian and U.S. federal tax considerations, taking into account the Canada-U.S. tax treaty (Treaty).

Ceasing Canadian residency

Your Canadian income tax and filing requirements are based on your Canadian tax residency status. If you sever residential ties with Canada, you may become a non-resident of Canada and may be subject to a number of Canadian income tax and filing requirements, discussed in the following sections Determining your Canadian tax residency status is the topic of a separate article; for more information, please ask your RBC advisor for a copy of that article.

Canadian deemed disposition rule

On the date you cease Canadian residency, you're deemed to have disposed all of the property you own worldwide at its fair market value (FMV), subject to certain exceptions, and to have immediately reacquired the property for the same amount. Property subject to this deemed disposition rule includes securities in your non-registered investment portfolio, real estate situated outside of Canada, shares of a Canadian

private corporation and interests in a partnership. This rule applies whether or not you physically move the property outside of Canada.

The deemed disposition rule ensures you're subject to tax in Canada in respect of capital gains that have accrued while you're a resident in Canada. The tax liability resulting from the realization of these accrued gains is often referred to as the "departure tax."

A number of recent changes have been made to the alternative minimum tax (AMT) rules to broaden the impact for high-income earners. The AMT is a parallel tax calculation for individuals which allows for fewer deductions, exemptions and tax credits than the regular income tax rules. If your AMT liability is greater than your regular income tax liability, you pay the AMT amount. A Canadian resident who's subject to AMT may carry forward the difference between the AMT paid and the regular income tax lability as a tax credit to offset future regular taxes. A discussion of the AMT rules is beyond the scope of this article. Please ask your RBC advisor for a copy of a separate article that discusses AMT. Capital gains are subject to a preferential tax rate under the regular income tax calculation, however, 100% of the capital gain is included in the AMT calculation. If the deemed disposition results in significant net capital gains, you may be required to pay AMT with limited ability to recover the AMT credit, which may result in a higher tax burden. A qualified tax advisor can help you determine if you may have an AMT liability on ceasing to be a Canadian resident.

If the deemed disposition results in a net capital loss (capital losses exceed your capital gains), you may carry back the loss to any of the three preceding tax years to offset any taxable capital gain incurred in those years. This may lead to a tax refund. The net capital loss may also be carried forward indefinitely. While you're a non-resident of Canada, if you realize a capital gain on property that's taxable in Canada (e.g. on a sale of Canadian real estate) and you're required to file a Canadian tax return, you may apply any carried-forward net capital loss against the taxable capital gain to reduce your Canadian tax liability.

It's important to note that when you move to the U.S., the adjusted cost base (ACB) of your property doesn't automatically change to the FMV of the property on the date you cease Canadian residency. For U.S. tax purposes, when calculating the gain on the eventual sale of the property, your original ACB is used. This may result in double taxation (Canadian tax paid on any accrued gain as a result of the deemed disposition and U.S. tax paid on the gain realized on the actual sale of the property). To eliminate double taxation, the Treaty allows you to elect for U.S. tax purposes a deemed disposition of property subject to the deemed disposition rule in Canada. Since the deemed disposition occurs before establishing U.S. residency, the gain would not generally be subject to U.S. tax, unless the gain is on U.S. real property interests or U.S. business property (discussed in the following section). The election results in a step-up in the cost base of property subject to the deemed disposition to its FMV on the date of departure from Canada, which helps ensure the gain that was taxed in Canada upon departure will not be taxed in the U.S. when the property is actually sold.

A number of recent changes have been made to the alternative minimum tax (AMT) rules to broaden the impact for high-income earners. The AMT is a parallel tax calculation for individuals which allows for fewer deductions, exemptions and tax credits than the regular income tax rules.

If the gain is related to U.S. real property interests or U.S. business property, the U.S. retains the right to tax capital gains on such property, and the Treaty election would generally also trigger U.S. taxes. However, the Treaty may also provide relief from double taxation, as it may allow you to claim a foreign tax credit for U.S. taxes paid against Canadian tax payable for the year you cease to be a Canadian resident.

You should ask a qualified tax advisor for information on this election and whether it may be applicable for your particular circumstances.

Property exempt from the deemed disposition rule

Property exempt from the Canadian deemed disposition rule includes, but is not limited to, the following types:

- Canadian real estate, resource and timber resource property
- Canadian business property (including inventory) in certain cases where the business is carried on in Canada
- Property in registered pension and other registered plans (e.g. registered retirement savings plan (RRSP), registered retirement income fund (RRIF), registered education savings plan (RESP), tax-free savings account (TFSA), first home savings account (FHSA), locked-in retirement plans and employer-provided pension plans)

- Employee stock options that are subject to Canadian tax
- Interest in life insurance policies other than segregated funds
- Property held in a Canadian resident trust where the trust remains resident in Canada
- Property owned by a Canadian corporation (but not the shares of the corporation itself)
- Property you owned when you last became a resident of Canada, or that you inherited after you last became a resident of Canada if you've been resident in Canada for 5 years or fewer during the 10-year period before you ceased Canadian residency

Some of the property listed may be subject to Canadian taxation at a later date (e.g. on the date Canadian real estate is sold, when a withdrawal is made from an RRSP, or upon your death).

Canadian tax reporting for the year of your move

Personal income tax return

When you cease Canadian residency partway through a calendar year, you must file a Canadian resident tax return and report your worldwide income for the portion of the year you were resident in Canada, as well as any capital gains or losses resulting from the deemed sale of your property at the time of departure. This return is often referred to as a "part-year return." Certain personal tax credits such as the basic personal amount and spousal amount will be prorated based on the number of days you were resident of Canada. The same filing and payment deadlines that would apply to you if you were a resident of Canada and filing a tax return for the full year apply to the filing of a part-year Canadian tax return.

Information reporting

There are various informational reporting forms that may need to be completed when you cease Canadian residency. A detailed discussion about all of the reporting requirements is beyond the scope of this article. However, here are some of the common types of informational forms you may need to complete and some general information about each:

T1243 Deemed Disposition of Property by an Emigrant of Canada

If you own property that's subject to the deemed disposition rule, you must complete this form and calculate the capital gains or losses relating to the property arising from the disposition.

T1161 List of Properties by an Emigrant of Canada

If the FMV of all of the "reportable property" you own on the day you cease Canadian residency is greater than $25,000, you must file a separate informational form to disclose ownership of these properties. In general, all properties you own must be reported, except for those that are specifically excluded. Excluded property includes any personal-use property with a value of less than $10,000, cash (including bank deposits), and certain registered plans (such as an RRSP, a RRIF, an RESP, an FHSA and a TFSA).

If you own property that's subject to the deemed disposition rule, you must complete this form and calculate the capital gains or losses relating to the property arising from the disposition

T1135 Foreign Income Verification Statement

If at any time during the calendar year you owned or held a beneficial interest in certain foreign property with a total cost of more than CAN$100,000, you're required to file an additional information form. A discussion of this form is the topic of a separate article that you may obtain from your RBC advisor. Technically, you're required to provide information on certain foreign property for the entire calendar year, even though you may have only been a resident of Canada for part of the year. However, administratively, the Canada Revenue Agency (CRA) may only require you to provide information relating to the period during which you were a resident of Canada and may not require you to include transactions that occur or properties you acquire after ceasing residency.

Deferring payment of departure tax

You may elect to defer the payment of departure tax resulting from the deemed disposition rule by filing a prescribed CRA form. Depending on the amount of tax you're deferring, you may be required to provide the CRA with adequate security. A discussion of the process and filing requirement is beyond the scope of this article. In general, you'll pay the deferred departure tax (without interest and penalties) when you eventually sell or otherwise dispose of the properties.

As mentioned, your departure tax is computed based on the FMV of the property on the date you cease Canadian residency. Your departure tax liability doesn't change even if the value of the property increases or decreases after that date. Consequently, if the value of the property substantially decreases after the date you cease Canadian residency, the departure tax liability could exceed the value of the property when the property is eventually disposed of or sold.

Planning to reduce departure tax

RRSP contributions and charitable donations

Deductible contributions to your RRSP and donations to Canadian registered charities can reduce your tax liability in the year you cease residency. Assuming you have unused RRSP contribution room, an RRSP contribution can be deducted against capital gains realized as a result of your departure from Canada. To claim an RRSP deduction on your part-year Canadian tax return, you must make an RRSP contribution no later than 60 days after the end of the year you cease Canadian residency.

Charitable donations should be made before the date you cease Canadian residency if you want to claim a donation tax credit for these donations on your part-year Canadian tax return. If you donate securities with accrued capital gains in-kind from your non-registered portfolio to a qualified donee (such as a Canadian registered charity) before you cease Canadian residency, you're not subject to departure tax on the securities donated. The accrued gain on these securities is exempt from Canadian tax and you may be able to claim a charitable donation credit on your Canadian part-year return for the FMV of the donation.

Elect to realize capital losses on exempt property

You can elect to realize accrued capital losses on Canadian real estate, Canadian resource property or timber resource property, or property used in a business carried on in Canada that you own. This type of property is ordinarily exempt from the Canadian deemed disposition rule. The election is made on a prescribed CRA form. Ask a qualified tax advisor for more information regarding the filing of this election.

You can use the capital losses to reduce the capital gains triggered on property that's not exempt from the deemed disposition rule. However, the losses realized under this election are limited to the gains realized under the deemed disposition rule.

Spousal attribution upon emigration

The Canadian spousal attribution rules generally prevent income splitting between spouses (for the purposes of these rules, a common-law partner is treated as a spouse). In general, where property has been transferred by one spouse to the other, any capital gain/loss or income earned on the transferred property will be attributed to the transferring spouse and will not be taxed in the hands of the recipient spouse. There is an exception to the application of these rules on capital gains triggered as a result of the deemed disposition due to ceasing Canadian residency. This may create an income splitting opportunity that may reduce your family's total tax liability. For example, if you're the higher-income earning spouse, you could transfer capital property with an accrued gain to your lower-income spouse at the property's ACB before you both cease Canadian residency. Then, when you both cease Canadian residency, the gains triggered due to the deemed disposition rule on the property transferred to your lower-income spouse will not be taxable to you as a result of the exception to the spousal attribution rules. Instead, the gain will be taxed in your spouse's hands at a lower income tax rate. It's important to seek advice from a qualified tax advisor to determine whether you'll benefit from this strategy.

You can elect to realize accrued capital losses on Canadian real estate, Canadian resource property or timber resource property, or property used in a business carried on in Canada that you own.

Cross-border tax considerations

The following sections discuss the Canadian and U.S. cross-border tax considerations for certain property.

Investment accounts held in Canada

You should contact your financial advisor to discuss the status of your non-registered and registered investment accounts, including any changes that may be required as a result of your move. For example, you should understand any trading restrictions that may apply and any documentation requirements such as the requirement for a U.S. resident to supply their financial institution with a certification of their U.S. status and their U.S. taxpayer identification number. This generally allows for an exemption from U.S. withholding tax on income earned from U.S. investments.

Canadian mutual funds

Canadian tax treatment

Canadian mutual funds held in a non-registered account are subject to the deemed disposition rule. In general, Canadian mutual fund companies allow you to continue to hold onto your funds once you become a non-resident of Canada, but some of them may require your funds to be redeemed. Also, you're generally not permitted to purchase a new fund or switch to other series of the fund while you're not a resident of Canada (so your only option as a non-resident is to hold and sell the funds).

U.S. passive foreign investment company (PFIC) rules

From a U.S. tax perspective, continuing to hold Canadian-based mutual funds and Canadian-based exchange traded funds (ETFs) in accounts other than

certain registered retirement savings accounts could result in punitive U.S. taxation due to the U.S. PFIC rules. These rules may also apply to investments in other non-U.S. based investment entities that are also not Canadian-based entities. For more information on the PFIC rules, ask your RBC advisor for an article on this topic. You should consult with a qualified cross-border tax advisor about whether it makes sense to sell these types of investments prior to becoming a U.S. resident or continue to hold onto these investments.

Registered plans

RRSP and RRIF

Canadian tax treatment

Your RRSP and/or RRIF don't need to be wound up when you cease Canadian residency. They may continue to grow tax deferred. Provided you have RRSP contribution room, you're allowed to contribute to your RRSP as a non-resident of Canada; however, as discussed earlier, the contribution must be made by the required deadline to claim a deduction on your part-year return. Contributions you choose not to deduct or that are made after the deadline may be carried forward. In general, making RRSP contributions that are not deducted on your part-year return is not recommended, except if you'll have Canadian income subject to a Canadian tax return filing requirement as a non-resident or where you plan to re-establish Canadian residency in the future and expect to claim the deduction at that time.

Home Buyers' Plan (HBP)/Lifelong Learning Plan (LLP)

Any outstanding HBP or LLP balances must be repaid to your RRSP once you cease Canadian residency, or the unpaid amount must generally be included in your income and subject to tax for the tax year in which you became a non-resident.

Withdrawals from an RRSP/a RRIF as a non-resident

Withdrawals from your RRSP/RRIF as a non-resident of Canada are generally subject to a Canadian non-resident withholding tax of 25%. However, the Treaty allows for periodic pension payments from your RRIF to qualify for a reduced Canadian non-resident withholding tax rate of 15%. A periodic pension payment is an amount withdrawn in a calendar year from a RRIF that doesn't exceed the greater of the following:

- Twice the RRIF minimum amount for the year, or
- 10% of the FMV of the RRIF at the beginning of the year

For the purpose of calculating the periodic pension payment, where funds are transferred to a RRIF in a particular year, both the minimum amount and the FMV of the RRIF are determined on the assumption that the transfer took place immediately before the beginning of the particular year. This ensures the RRIF minimum amount will not be NIL in the first year of the RRIF. As well, the FMV at the time of transfer to the RRIF is used for the purposes of calculating twice the RRIF minimum amount and 10% of the FMV of the RRIF in the first year.

Your RRSP and/or RRIF don't need to be wound up when you cease Canadian residency. They may continue to grow tax deferred.

U.S. tax treatment

Your RRSP/RRIF is not exempt from U.S. tax; however, under the Treaty, you can elect to defer U.S. federal income tax on the income and capital gains earned on property in these plans until there's an actual withdrawal or distribution from these plans. The election to defer is generally automatic and is made by not including the income or capital gains earned in these plans on your U.S. income tax return. However, the tax deferral may not apply for U.S. state tax purposes. There could be U.S. state tax imposed annually on income and gains earned in the plan. This may result in double taxation, as there's a mismatch in the timing of the taxation of income for Canadian and U.S. tax purposes. If the RRSP/RRIF is subject to U.S. state tax annually, a planning option may be to change the investments in the plan to growth only.

There is no mechanism to roll over your RRSP/RRIF to a retirement plan in the U.S. on a tax-deferred basis. A withdrawal from the plan is considered a distribution and will be subject to U.S. federal tax where an election to defer U.S. tax under the Treaty is made. The distribution is taxed as annuity income where each distribution is considered partially a non-taxable return of capital (your investment in the contract) and a distribution of income. Your investment in the contract is generally the ACB of the assets in your plan as of the date you establish U.S. residency, as well as income earned in the plan prior to establishing U.S. residency. Therefore, the taxable amount of the plan when eventually distributed is the income received and accrued gains realized in the plan after establishing U.S. residency. One planning strategy that bumps up the cost base of the RRSP/RRIF for U.S. tax purposes is to sell and repurchase the property held in the plan before you move to the U.S. and become a U.S. resident. This will not trigger a Canadian tax liability, although service or commission fees may be incurred. The result is that only the income and growth earned in the RRSP/RRIF from the date you establish U.S. residency will be subject to U.S. tax.

When you make a withdrawal from your RRSP/RRIF, a foreign tax credit may be claimed on your U.S. federal tax return for Canadian withholding tax applied to the distribution, so that the RRSP/RRIF proceeds are not subject to double taxation. Many states don't allow a foreign tax credit to reduce state taxation.

Locked-in registered plans

Your locked-in registered plans, such as a locked-in retirement account, locked-in retirement income fund and life income fund, do not need to be unwound when you cease Canadian residency. They remain locked-in, even when you become a U.S. resident. However, you may be entitled to some "unlocking" relief. For example, you may be able to unlock and access the plan assets due to non-residency if the applicable federal or provincial pension legislation allows it.

For Canadian tax purposes, your locked-in registered plan remains tax-deferred until a withdrawal is made. When a withdrawal is made, Canadian non-resident withholding tax will be applied in the same manner as applied to RRSP/RRIF withdrawals.

Similar to an RRSP/a RRIF, these plans are generally also tax deferred for U.S. tax purposes under the Treaty until a withdrawal from the plan is made. When a withdrawal is made, the entire gross amount withdrawn is subject to U.S. taxation. You should be able to claim a foreign tax credit on your U.S. tax return for Canadian taxes paid on the withdrawal to reduce the risk of double taxation.

Other registered plans (TFSA, FHSA, RESP)

Canadian tax treatment

TFSA

Your TFSA doesn't need to be wound up when you cease Canadian residency. It remains tax-free for Canadian tax purposes. You can contribute to a TFSA up to the date you become a non-resident of Canada. However, no contributions are permitted, and no contribution room will accrue while you're a non-resident of Canada for a full tax year. Any withdrawals made during the period you're a non-resident will be added to your unused TFSA contribution room in the following year, but this room will only become available if you re-establish residency in Canada.

FHSA

Your FHSA doesn't need to be wound up when you cease Canadian residency. It remains tax-free for Canadian tax purposes and you're allowed to contribute as a non-resident. As a non-resident of Canada, you can't make a qualifying withdrawal to build or buy a qualifying home.

RESP

You don't need to collapse an RESP when a subscriber or a beneficiary becomes a non-resident of Canada. However, when a beneficiary becomes a non-resident, no further contributions can be made to the plan. The income earned in the RESP is not subject to tax for Canadian tax purposes until a withdrawal is made. If the beneficiary is a non-resident of Canada at the time they attend a qualifying educational program at a post-secondary school level, income earned in the plan can still be paid to them, provided certain criteria are met. Any grant or bond received in the plan prior to the beneficiary becoming a non-resident of Canada can't be paid to them. For more information regarding the Canadian tax treatment of an RESP where there's a non-resident subscriber or beneficiary, ask your RBC advisor for an article on this topic.

U.S. tax treatment

For U.S. tax purposes, income earned in your TFSA and FHSA is taxable annually on your U.S. tax return. If you're the subscriber of the RESP, income earned in the RESP may also be taxable to you annually on your U.S. tax return once you become a U.S. resident. This could create a double taxation issue, as the income in the RESP is taxable annually to the subscriber for U.S. tax purposes, but to the beneficiary for Canadian tax purposes when a distribution to them is made. These registered plans may be viewed as foreign trusts for U.S. tax purposes and subject to additional filing requirements. A discussion of the U.S. foreign trust rules is beyond the scope of this article. Your RBC advisor can provide you with articles that specifically address the U.S. tax treatment of foreign trusts, FHSAs, TFSAs and RESPs.

It's important to understand and discuss the tax implications of these plans with a qualified cross-border tax advisor in advance of your move so you can ultimately decide whether you should keep these plans or wind them up before you leave. There may be similar U.S.-based plans that provide tax-free and education savings that may be more appropriate.

Shares of a Canadian private corporation

Canadian tax treatment

Property held by a Canadian private corporation is generally not subject to the deemed disposition rule when you cease Canadian residency. However, the shares you own will be subject to a deemed disposition, triggering any accrued capital gains or losses. If the shares qualify, you may claim a capital gains exemption that minimizes or eliminates the gain triggered.

When shareholders of a Canadian corporation become non-residents of Canada, there are a number of tax implications to consider. For example, if a Canadian-controlled private corporation (CCPC) is no longer controlled by a Canadian resident(s), it loses its CCPC status and no longer qualifies for certain benefits such as reduced tax rates on active business income up to the small business deduction and certain investment tax credits. As well, dividends paid from the capital dividend account (CDA) of the corporation to you, a non-resident, may be subject to Canadian non-resident withholding tax and U.S. income tax. Talk to a qualified tax advisor about tax planning options with respect to your corporation that may make sense before ceasing Canadian residency. For example, if you want the corporation to maintain its CCPC status, redeeming or selling your shares may be an option. In addition, you could clear out the CDA and any other tax-favoured accounts that will no longer qualify for preferable Canadian tax treatment once you cease Canadian residency.

U.S. controlled foreign corporation (CFC) rules

The shares you own in a Canadian private corporation may be subject to the U.S. controlled foreign corporation (CFC) rules or the PFIC rules previously discussed. A discussion of the CFC rules is beyond the scope of this article and should be reviewed with a qualified cross-border tax advisor. However, in general, if the CFC rules apply, they may result in personal U.S. income tax to you as a U.S. shareholder on income earned by the corporation, even if the corporation doesn't distribute the income to you.

Canadian real estate

Canadian withholding tax and filing requirements

If you sell real estate located in Canada as a non-resident, you're subject to Canadian tax. Initially, the purchaser is required to withhold and remit 25% of the gross sale proceeds to the CRA. You may ask the CRA to apply the 25% non-resident withholding tax on the net capital gain as opposed to the gross proceeds of sale. To obtain this approval, you must make your request in advance of the sale or within 10 days of the sale. Ask a qualified tax advisor for advice on how to make the necessary tax filings.

The withholding tax is not your final Canadian tax liability. You're required to file a Canadian non-resident income tax return to report the taxable capital gain or loss on the sale and calculate your ultimate tax liability. On your Canadian tax return, you may deduct selling costs, such as legal fees and commissions, against your taxable capital gain. The tax that was withheld can be credited against any taxes payable, and any excess tax withheld may be refunded.

If you receive rental income from real estate located in Canada, the payer or agent is required to withhold 25% of the gross rent. When the tax withholding is based on the gross rental income, you're not required to file a Canadian tax return. However, you may elect to file a tax return to report the rental income and claim the allowable expenses so that your ultimate tax liability will be based on the net rental income. Any excess taxes that were withheld based on the gross rent would be refunded to you.

There's also an election that allows for the tax withholding to be based on the net rental income by filing a prescribed CRA form. If this election is made, a Canadian tax return is required to be filed to report the rental income and claim the allowable expenses.

If your home becomes a rental property, you should be aware of the change in use rules. Under these rules, you're deemed to have sold and immediately reacquired that property at FMV. This "change in use" may result in a capital gain or loss in the year the change of use takes place. However, you can make an election to not recognize the deemed disposition, which allows you to defer the recognition of any gain until you sell the property. You should consult with a qualified tax advisor to discuss this election before you start renting out your property.

Principal residence exemption

When a Canadian resident sells real estate that qualifies as their principal residence, any capital gain realized as a result of the sale may be exempt from Canadian tax due the principal residence exemption. The principal residence exemption is the topic of a separate article that you may obtain from your RBC advisor. If you sell Canadian real estate as a non-resident that previously qualified as your principal residence when you lived in Canada, the principal residence exemption may not fully shelter the capital gain on the sale of the property from tax. This is because you can only designate the property as your principal residence for the years you were a Canadian resident at any time during the year. As such, some of the gain realized on the sale of the property may be taxable. Nonetheless, if this property qualified as your principal residence when you were a resident of Canada, it may be possible to request that the CRA reduce the amount withheld by the portion of the capital gain that would be excluded from tax because of the principal residence exemption.

If the sale of your former principal residence results in a loss, you will not be able to utilize the loss. The loss is deemed to be nil because the property is considered "personal-use property" (i.e. property that you own primarily for the personal use or enjoyment by your family and you).

U.S. taxation of gain on sale of principal residence

If your property qualifies as your principal residence for U.S. tax purposes, you can exclude up to US$250,000 (or up to US$500,000 if you're married and file a joint tax return) of the capital gain realized on the sale of property from your income. In general, to qualify as your principal residence, you must have owned and occupied the property as your main home for at least two out of the five years prior to the date of sale. Similar to the Canadian tax rules, any loss realized on the sale is generally not deductible.

The Treaty has a provision that increases the cost basis of your principal residence to the FMV as of the date you terminate Canadian residence. This provision eliminates the U.S. tax on any accrued gain as of the date of terminating Canadian residence.

If there's a Canadian mortgage on the property, and the mortgage is discharged on the sale, you may be subject to U.S. income tax on gains derived from differences in the Canada-U.S. exchange rate on the date the loan was made and the date a repayment of the loan is made.

U.S. taxation on the rental of your Canadian home

As a U.S. resident, you're required to report worldwide income. If you receive rental income from your Canadian property, the rental income (and any allowable deductions) will likely need to be included on your U.S. income tax return. A foreign tax credit may be claimed to mitigate any double taxation.

Canadian employee stock options

Canadian tax treatment

If you've deferred the reporting of a taxable stock option benefit on previously exercised employee stock options, the deferral ends when you cease residency and you'll be subject to Canadian tax on the stock option benefit. For unexercised options granted while you're a Canadian resident, you may be subject to Canadian tax on some or all of the security option benefit when you eventually exercise them as a non-resident. As the taxable amount is considered employment income, you're required to file a Canadian non-resident tax return.

U.S. tax treatment

Employee stock option benefits are subject to U.S. tax at the date of exercise. The Treaty may provide relief in certain circumstances to allow consistency with respect to sourcing the taxable benefit reported in both countries for foreign tax credit purposes in order to avoid double taxation. However, in certain cases, there may be differences in the timing and calculation of the taxable amount for Canadian and U.S. tax purposes, which may result in double taxation due to the inability to claim foreign tax credits.

As a U.S. resident, you're required to report worldwide income. If you receive rental income from your Canadian property, the rental income (and any allowable deductions) will likely need to be included on your U.S. income tax return.

The U.S. generally taxes employee stock option benefits as compensation income subject to tax at marginal tax rates. Furthermore, if the options are exercised while you're a resident of a state that imposes an income tax, that state would also impose a tax on the stock option benefit. Consequently, options exercised after establishing U.S. residency will likely be taxed at a much higher rate than if the option is exercised before changing residence. This issue should be discussed with a qualified tax advisor to ensure you understand the tax and economic implications of when to exercise your employee stock options.

Life insurance policies

If you leave Canada, any interest you hold in a Canadian life insurance policy is not subject to the deemed disposition rule. However, an interest in a Canadian segregated fund life insurance policy is not exempt — you'll be deemed to have disposed of the policy based on its FMV and will be taxed on any gain that results.

Your Canadian life insurance policy must meet certain criteria in the U.S. in order for the income or growth generated in the policy to be exempt from tax for U.S. tax purposes. You may also be subject to U.S. excise tax on your life insurance policy premiums. A discussion of the U.S. tax treatment of foreign life insurance policies is complex and beyond the scope of this article. You should review your insurance needs as a result of your move to the U.S. with a qualified cross-border tax advisor. They can advise you of the potential U.S. tax issues that may apply if you keep your Canadian life insurance policy.

Other tax and estate planning considerations

U.S. filing requirements

U.S. residents are required to disclose information about financial assets they own or have certain authority over that are located outside the U.S. (commonly referred to as foreign financial assets). These foreign reporting requirements are in addition to a U.S. resident's requirement to file a U.S. income tax return. Some of the foreign reporting requirements only require disclosure of information and don't result in additional U.S. income tax. Some, however, may result in punitive U.S. income tax, (and penalties may be imposed for failure to file the necessary forms. A discussion of these filing requirements is beyond the scope of this article.

U.S. transfer tax

The U.S. has a transfer tax system in addition to an income tax system that includes a U.S. gift, estate and generation-skipping transfer tax. A detailed discussion of the U.S. transfer tax system is beyond the scope of this article. You should discuss your exposure to these taxes with a qualified cross-border tax advisor before you move to the U.S., as there may be planning options you can implement to reduce your exposure.

U.S. and Canadian social security benefits

Canada and the U.S. have a social security agreement that aims to help individuals moving from one country to the other qualify for government-provided programs from each country. For more information, please review the respective country's government website.

Wills and powers of attorney (POAs)

Moving presents an excellent opportunity to review and update your estate planning arrangements such as your Will and POAs. It's important to ensure you have a Will and POAs that are valid and recognized in the U.S. state where you reside. Your current choice of executor(s), (or liquidator(s) in Quebec), trustee(s) and attorney(s) may no longer be recommended. You should have your Canadian Will reviewed by a qualified U.S. lawyer to determine whether it will be recognized and achieve your desired wishes or whether a new Will should be drafted. With POA documents being unique to most states, you may need to replace your Canadian POAs with properly drafted documents in the U.S. You will want a POA that outlines your wishes in managing your financial affairs in the event of incapacity. You may also want to confirm what type of document can be used in your state of residence to set out your wishes for medical care and treatment.

Conclusion

If you're contemplating moving from Canada to the U.S., you should contact your RBC advisor and a qualified cross-border tax or legal professional well in advance of your departure. Understanding the Canadian and U.S. income tax and estate planning issues that apply to your particular situation will enable you to identify appropriate strategies to implement.

This article may contain strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal and/or insurance advisor before acting on any of the information in this article.



Wealth Management

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