



What Every Canadian Should Know Before Moving to the U.S.

Each year, many Canadians relocate their place of residence by immigrating to the U.S. By doing so, they become subject to the U.S. tax laws with respect to taxation of income applicable to tax residents. It is important that these new immigrants understand the obligations associated with U.S. income tax reporting and disclosure requirements.

U.S. tax residents are required to report worldwide income on their U.S. income tax return, Form 1040. This includes income from the U.S., Canada and any other country in the world. This can result in the same income being subject to taxation in more than one country. For example, a former Canadian tax resident will be subject to Canadian income tax withholding on distributions from his RRSP or RRIF. These distributions would also be subject to U.S. income taxation. However, the U.S. would allow a tax credit for tax paid in Canada on this income. If the tax paid in Canada exceeds the U.S. tax applicable to this income, no additional U.S. tax would be payable. Even though the income is reportable in both countries, it does not result in double taxation.

There are also potential benefits that are available under the income tax treaty between the U.S. and Canada. When an individual departs Canada, he is treated as having disposed of many of his assets as of the date of his departure. Canadian income tax is paid on the gain from the deemed disposition. If the individual makes the proper election, he will be treated for U.S. income tax purposes as though he sold and repurchased the assets at fair market value on the date of departure. For U.S. income tax purposes, the tax basis of these assets becomes the fair market value as of the date of departure from Canada. Absent this election, the individual would be subject to double taxation on the subsequent sale of these assets. There are also benefits provided under the treaty with respect to the taxation of Old Age Security, Canada Pension Plan and Quebec Pension Plan payments.

In addition, there are disclosures that may need to be filed with the Internal Revenue Service. Some disclosures are associated with the reporting of income and others are simply for informational purposes. Some disclosures are filed with the Form 1040, while others are submitted separately. Failure to make full and adequate disclosure may result in the imposition of substantial penalties. The most common of these disclosures includes:

Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)

Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans

Form 8938, Statement of Specified Foreign Financial Assets

Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations

Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships

Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts

Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner

Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts

An Individual who immigrates from Canada to the U.S. needs to be cognizant of the U.S. income tax reporting and disclosure requirements that are applicable to his particular situation. He should never assume that the tax laws of Canada and the U.S. are the same, as they certainly are not. It is important that the individual obtain tax advice from a professional who is knowledgeable with respect to these specific issues. Knowledge and proper planning will facilitate a smooth transition from the tax system of Canada to the tax system of the U.S.



About the Author

Renea M. Glendinning, CPA, Shareholder, joined the firm in 1987 and has headed the International Tax Department since 1996. She has authored articles regarding various international tax issues and frequently gives presentations on U.S. income and estate taxation of foreign nationals doing business in the U.S.

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