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US Tax Filing Obligations

Presented by Kevin Shantz and Kylie Bechtold

An aerial photograph of a warehouse floor with several workers. One worker in a yellow vest is in the foreground, while others are further back. The image is overlaid with large, semi-transparent numbers 1 through 9 and teal diagonal lines. The text "GOING BEYOND THE NUMBERS" is centered in white.

GOING BEYOND THE NUMBERS

Agenda

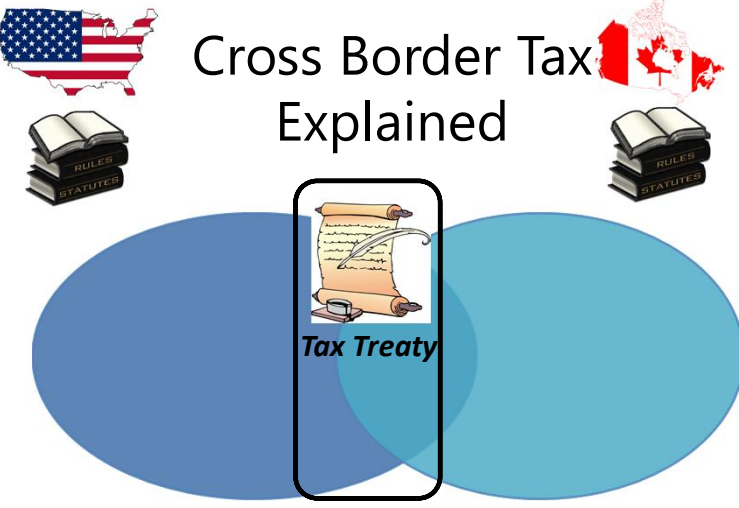
- Sourcing Income
- US employment
- Businesses interacting in the US
- US Pensions
- US Rentals
- US Inheritances
- US Gambling Winnings
- Questions

Introduction

- Canadians: love-hate relationship with the US
- Sometimes fall into the US tax net



- Help you understand why it happens, when it happens and how to minimize your exposure
- Different rules apply to US citizens/green card holders




Cross Border Tax Explained

Tax Treaty

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Are You a US Resident?

Consequence: treated as US resident, taxable in US on your world-wide income!

- A. **Substantial Presence Test:** calculated over a 3 year period where days in Current year = 1/1; Prior year = 1/3; Second prior year = 1/6
If that total is >183 days, considered resident
e.g. 140 days in 2019; 120 in 2018; 60 in 2017
 $140 + 40 (120/3) + 10 (60/6) = 190 \dots \text{fail!}$
 - ☒ File IRS form 8840 (Closer connection statement)
- B. **If over 183 days in a current year**
 - ☒ File form 1040NR and claim treaty protection

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Form **8840** **Closer Connection Exception Statement for Aliens**

Department of the Treasury
Internal Revenue Service

OMB No. 1545-0047

2019

Attachment Sequence No. 101

For the year January 1–December 31, 2019, or other tax year beginning 2019 and ending 20

Part IV Significant Contacts With Foreign Country or Countries in 2019

14 Where was your regular or principal permanent home located during 2019? See instructions.

15 If you had more than one permanent home available to you at all times during 2019, list the location of each and explain ►

16 Where was your family located?

17 Where was your automobile(s) located?

18 Where was your automobile(s) registered?

19 Where were your personal belongings, furniture, etc., located?

20 Where was the bank(s) with which you conducted your routine personal banking activities located?

a c

b d

21 Did you conduct business activities in a location other than your tax home? ☐ Yes ☐ No

If "Yes," where?

22a Where was your driver's license issued?

b If you hold a second driver's license, where was it issued?

23 Where were you registered to vote?

7 Where was your tax home during 2019?

8 Enter the name of the foreign country to which you had a closer connection than to the United States during 2019.

► Next, complete Part IV.

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Key Points

- If you do nothing/file nothing the default applies to you.
- Almost always more difficult to fix things than to do it right in the first place!
- If not considered resident, then only taxable on US source income.

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Canadian Tax



- Present in Canada more than 183 days - resident
- Taxable on your worldwide income
- Citizenship is irrelevant
 - Non citizen resident in Canada is taxable
 - A Canadian citizen living abroad and a non-resident of Canada is not taxable, (on certain specific kinds of income)
- Once a resident, considered a resident until you actively cease residency.

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What if both Countries want to tax the same income?



- The taxpayer does not get to choose which country!
- Foreign tax credit mechanism
 - e.g. own shares in Microsoft, receive dividends
 - US says taxable in the US since a US company
 - Canada says part of worldwide income, so tax here 15% withholding tax - goes to IRS. On your Canadian return you get a credit for the US tax that was withheld and so you pay that much less tax.
- If Canadian bracket is 40% - pay 15% to IRS; 25% to Canada.

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US Income subject to US tax



Subject to withholding tax, no US tax return required:

- Dividends from US companies (15%)
- Pensions (401k) from work done in the US (15%)
- IRA withdrawals, personal or inherited (15%)
- Gambling winnings (30%)

Tax return required, tax at regular US rates:

- Employment income, subject to a \$10,000 de minimus test
- Self-employment if a permanent establishment in US or providing services in the US for more than 183 days
- Rental income from real estate located in the US
- Capital gains on sale of real estate located in the US
- Partnership income including LLCs, also withholding tax

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US Income **NOT** subject to US tax when earned by Canadians



- Interest from US banks and financial institutions
- Social Security
- Capital gains on US stocks and other investments
- Investment income that would be exempt to US citizens – e.g. certain bonds
- Payments by US companies for work done outside of the USA

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Other Factors



- Tax exempt in Canada does not equal exempt in US! e.g. US dividends earned inside a TFSA
- State Taxes - same rules do not necessarily apply! e.g. Employment income < \$10,000
- Every state is different, some very aggressive
- Foreign tax credit mechanism imperfect

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Employment Income



| | | | | | | |
|---|----------------------------|-------------------------------|------------------------------------|-----------------------------|--|----------------------------------|
| 22222 | | Void <input type="checkbox"/> | Employee's social security number | | For Official Use Only OMB No. 1545-0008 | |
| b. Employer identification number (EIN) | | | 1. Wages, tips, other compensation | | 2. Federal income tax withheld | |
| c. Employer's name, address, and ZIP code | | | 3. Social security wages | | 4. Social security tax withheld | |
| | | | 5. Medicare wages and tips | | 6. Medicare tax withheld | |
| | | | 7. Social security tips | | 8. Allocated tips | |
| d. Control number | | | 9. Verification code | | 10. Dependent care benefits | |
| e. Employee's first name and initial | | Last name | Suff. | 11. Nonqualified plans | | 12a. See instructions for box 12 |
| | | | | 12b. | | |
| | | | | 12c. | | |
| | | | | 12d. | | |
| f. Employee's address and ZIP code | | | 13. State income tax | | 14. Local income tax | |
| 15. State | Employer's state ID number | 16. State wages, tips, etc. | 17. State income tax | 18. Local wages, tips, etc. | 19. Local income tax | 20. Locality name |

W-2 Wage and Tax Statement **2019**
 Form: Department of the Treasury—Internal Revenue Service
 Copy A For Social Security Administration — Send this entire page with
 Form W-3 to the Social Security Administration; photocopies are not acceptable.
 For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.
 Cat. No. 10134D

Do Not Cut, Fold, or Staple Forms on This Page

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Employment in the US is taxable there



- Key: where the services are performed:
 - If paid by US employer for work done in Canada, the US has no right to tax
- Exemptions:
 - a) Less than \$10,000 (per employment), OR;
 - b) Less than 183 days and not “borne” by a US payer
- Filing Requirements:
 - US Form 1040NR Non-resident Alien tax return
 - Form 8833 – Disclosure of Treaty Based Position
 - Form 8233 Exemption from Withholding on Compensation

Employment Issues



- Mis-match in withholdings - owe US tax but CDN withheld or both withheld
- State and city tax filings even if exempt federally
- Total taxes may be higher than in Canada e.g. Students working in tech sector in California
- Reduced RRSP contribution room if you contribute to a 401(k) or similar US plan

Canadian Filing



- Report on line 104 "Other Employment income"
- Claim Federal tax credit for US tax paid; state tax paid; Soc. Sec. tax paid (The amount you can claim on your Canadian return is the amount of tax as determined by the return, not the withholdings on the W2)
- Claim deduction for 401K and similar contributions (401K is like a company pension plan)
- Report the right number! W2 shows two numbers for wages Box 1 "Gross Wages" and Box 3 "Social Security wages"
- Report Box 1 amount plus the amount in Box 12 (d) (the 401K contribution) - usually this is the amount in box 3 if your salary is less than \$132,000
- Complete form RC268 to claim a deduction for 401K contribution
- Important to keep the W2 because Canada Revenue Agency will likely ask to see it if claiming a Foreign Tax Credit

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Self Employed and working in the US

- Form 1040NR Filing Requirement
- Form 8833 Treaty Disclosure Required
- Exempt from US Federal Tax
- Possible state filing requirements

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Form 8833 **Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)** OMB No. 1545-1354
 (Rev. September 2017)
 Department of the Treasury
 Internal Revenue Service

► Attach to your tax return.
 ► Go to www.irs.gov/Form9833 for the latest information.

Attach a separate Form 8833 for each treaty-based return position taken. Failure to disclose a treaty-based return position may result in a penalty of \$1,000 (\$10,000 in the case of a C-corporation) (see section 6712).

Name U.S. taxpayer identifying number Reference ID number, if any (see instructions)

Address in country of residence Address in the United States

Check one or both of the following boxes as applicable.

• The taxpayer is disclosing a treaty-based return position as required by section 6114 ☐

• The taxpayer is a dual-resident taxpayer and is disclosing a treaty-based return position as required by Regulations section 301.7701(b)-7 ☐

Note: If the taxpayer is a dual-resident taxpayer and a long-term resident, by electing to be treated as a resident of a foreign country for purposes of claiming benefits under an applicable income tax treaty, the taxpayer will be deemed to have expatriated pursuant to section 877A. For more information, see the instructions.

Check this box if the taxpayer is a U.S. citizen or resident or is incorporated in the United States ☐

1 Enter the specific treaty position relied on:

a Treaty country Canada

b Article(s) V, VII

2 List the Internal Revenue Code provision(s) overruled or modified by the treaty-based return position

3 Name, identifying number (if available to the taxpayer), and address in the United States of the payor of the income (if fixed or determinable annual or periodical). See instructions.

4 List the provision(s) of the limitation on benefits article (if any) in the treaty that the taxpayer relies on to prevent application of that article

5 Is the taxpayer disclosing a treaty-based return position for which reporting is specifically required pursuant to Regulations section 301.6114-1(b)? ☐ Yes ☒ No
 If "Yes," enter the specific subsection(s) of Regulations section 301.6114-1(b) requiring reporting
 Also include the information requested in line 6.

6 Explain the treaty-based return position taken. Include a brief summary of the facts on which it is based. Also, list the nature and amount (or a reasonable estimate) of gross receipts, each separate gross payment, each separate gross income item, or other item (as applicable) for which the treaty benefit is claimed.
See Statement 2

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Form 8833 Statement 2

1. Nature of Gross revenue payments: Consulting fees -- \$223,037.

2. Explanation of position taken and supporting facts:
 The taxpayer receives fees for finance and accounting consulting provided to customers in the US.

a) The taxpayer does not have authority to enter into contracts on behalf of the payer.

b) The taxpayer does not have a permanent establishment or a fixed place of business in the USA.

c) The taxpayer spent 92 days in the USA in 2010 on business related matters.

3. The taxpayer is resident and citizen of Canada and files taxes as a Canadian resident reporting his worldwide income there.

4. The taxpayer reserves the right to the benefit of deductions and credits attributable to the gross income if it later determined that the original determination of no permanent establishment is found to be erroneous.

5. This statement is filed pursuant to Treas. Reg. 1.882--4(a)(3)(vi). The treaty provides that business profits are only taxable in the USA to the extent the taxpayer has a permanent establishment in the US, or in the case of services, that the taxpayer is physically present in the US for more than 183 days in any 12 month period. Neither of those two circumstances are the case here. Accordingly, the taxpayer hereby claims the protection of the treaty in excluding this income from US taxation.

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States that Do Not Accept Tax Treaty

- Alabama
- Arkansas
- California
- Connecticut
- Hawaii
- Kansas
- Kentucky
- Maryland
- Mississippi
- New Jersey
- North Dakota
- Pennsylvania

States that Do Not Impose Income Tax

- Alaska
- Florida
- Nevada
- South Dakota
- Texas
- Washington
- Wyoming

Canadian Corporations

- Are they required to file a US tax return?
 - Am I carrying on a trade or business in the US?
 - Do I have income that is “effectively connected with the conduct of a trade or business within the US”?

Carrying on business in the US?

- Do you have US sales?
- Do you ship goods to the US?
- Do your employees travel to the US for sales calls, installations, training or servicing clients?
- Do you have a permanent residence in the US?
- Do you have employees spending significant time in the US?

Benefits of Canada-US Tax Treaty

- Canadian residents are only taxable in the US on their US business profits if they carry on their business in the US through a US permanent establishment (PE)
- PE is considered
 - Place of management
 - Branch
 - Office
 - Through employee

PE Rules for Services

- Services performed by employee or yourself and:
 - Present in the US over 183 days in the past 12 months
 - Revenue generated in US accounts for more than 50% of total revenues

Form 1120-F

- US foreign corporate return
- Form 8833 Treaty Disclosure
- Informational return
- Protective return
- Disclosing US sales

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Form 1120-F U.S. Income Tax Return of a Foreign Corporation OMB No. 1545-0123
For calendar year 2018, or tax year beginning in 2018, and ending in 2018
Go to www.irs.gov/Form1120F for instructions and the latest information.

2018

Name
Number, street, and room or suite no. (see instructions)
City or town, state or province, country, and ZIP or foreign postal code

Employer identification number

Type or Print

Check box(es) if:
☐ Name or address change
☐ First post-overseer return
☐ Schedule M-3 attached
☐ Protective return

Initial return
Final return
Amended return
Protective return

A Country of incorporation

B Foreign country under whose laws the income reported on this return is also subject to tax

C Date incorporated

D (1) Location of corporation's primary books and records (city, province or state, and country)
(2) Principal location of worldwide business

E If the corporation had an agent in the United States at any time during the tax year, enter:
(1) Type of agent
(2) Name
(3) Address

F See the instructions and enter the corporation's principal:
(1) Business activity code number
(2) Business activity
(3) Product or service

G Check method of accounting: (1) ☐ Cash (2) ☐ Accrual
(3) ☐ Other (specify) _____

Computation of Tax Due or Overpayment

| | | | |
|----|---|----|--|
| 1 | Tax from Section I, line 11, page 3 | 1 | |
| 2 | Tax from Section II, Schedule J, line 9, page 5 | 2 | |
| 3 | Tax from Section III (add lines 6 and 10 on page 6) | 3 | |
| 4 | Total tax. Add lines 1 through 3 | 4 | |
| 5a | 2017 overpayment credited to 2018 | 5a | |
| 5b | 2018 estimated tax payments | 5b | |
| 5c | Less 2018 refund applied for on Form 4466 | 5c | |
| 5d | Combine lines 5a through 5c | 5d | |
| 5e | Tax deposited with Form 706L | 5e | |
| 5f | Credit for tax paid on undistributed capital gains (attach Form 2439) | 5f | |
| 5g | Credit for federal tax paid on fuels (attach Form 4136). See instructions | 5g | |
| 5h | Refundable credit from Form 8827, line 8c | 5h | |
| 5i | U.S. income tax paid or withheld at source (add line 12, page 3, and amounts from Forms 8288-A and 8805 (attach Forms 8288-A and 8805)) | 5i | |
| 5j | Total payments. Add lines 5d through 5i | 5j | |
| 6 | Estimated tax penalty (see instructions). Check if Form 2220 is attached | 6 | |
| 7 | Amount owed. If line 5j is smaller than the total of lines 4 and 6, enter amount owed | 7 | |
| 8a | Overpayment. If line 5j is larger than the total of lines 4 and 6, enter amount overpaid | 8a | |
| 8b | Amount of overpayment on line 8a resulting from tax deducted and withheld under Chapters 3 and 4 from Schedule W, line 7, page 8 | 8b | |
| 9 | Enter portion of line 8a you want Credited to 2019 estimated tax | 9 | |
| | Refunded | | |


Sign _____

Under penalty of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

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| | | | | |
|---|--|--|--|-------------------|
| Form 8833 <small>(Rev. September 2012)</small> Department of the Treasury Internal Revenue Service | | Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b) ▶ Attach to your tax return. ▶ Go to www.irs.gov/Form8833 for the latest information. | | OMB No. 1545-1354 |
| Attach a separate Form 8833 for each treaty-based return position taken. Failure to disclose a treaty-based return position may result in a penalty of \$1,000 (\$10,000 in the case of a C corporation) (see section 6712). | | | | |
| Name | | U.S. taxpayer identifying number | Reference ID number, if any (see 1545-1) | |
| Address in country of residence | | Address in the United States | | |
| Check one or both of the following boxes as applicable. | | | | |
| • The taxpayer is disclosing a treaty-based return position as required by section 6114. ▶ <input checked="" type="checkbox"/> | | | | |
| • The taxpayer is a dual-resident taxpayer and is disclosing a treaty-based return position as required by Regulations section 301.7701(b)-7. ▶ <input type="checkbox"/> | | | | |
| Note: If the taxpayer is a dual-resident taxpayer and a long-term resident, by electing to be treated as a resident of a foreign country for purposes of claiming benefits under an applicable income tax treaty, the taxpayer will be deemed to have expatriated pursuant to section 877A. For more information, see the instructions. | | | | |
| Check this box if the taxpayer is a U.S. citizen or resident or is incorporated in the United States ▶ <input type="checkbox"/> | | | | |
| 1 Enter the specific treaty position relied on: a Treaty country <u>Canada</u> b Articles V, VII, and X | | 3 Name, identifying number (if available to the taxpayer), and address in the United States of the payor of the income (if fixed or determinable annual or periodical). See instructions. | | |
| 2 List the Internal Revenue Code provision(s) overruled or modified by the treaty-based return position <u>882</u> | | | | |
| 4 List the provision(s) of the limitation on benefits article (if any) in the treaty that the taxpayer relies on to prevent application of that article. ▶ <u>Article XXIX, paragraph 2 (a)(e)</u> | | | | |
| 5 Is the taxpayer disclosing a treaty-based return position for which reporting is specifically required pursuant to Regulations section 301.6114-1(b)? ▶ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter the specific subsection(s) of Regulations section 301.6114-1(b) requiring reporting ▶ <u>(3), (5)</u> Also include the information requested in line 6. | | | | |
| 6 Explain the treaty-based return position taken. Include a brief summary of the facts on which it is based. Also, list the nature and amount (or a reasonable estimate) of gross receipts, each separate gross payment, each separate gross income item, or other item (as applicable) for which the treaty benefit is claimed. <u>See Statement 1</u> | | | | |

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1) The taxpayer is incorporated under the federal laws of Canada or one of its provinces. As such, the corporation is a "foreign" corporation as described in IRC Section 7701(a)(5).

2) The taxpayer does not have a permanent establishment in the United States as defined in Article V (Permanent Establishment) of the Canada - U.S. Tax Convention ("Treaty"). In the current year, the taxpayer did not maintain a fixed place of business in the United States. In addition, no dependent agent of the taxpayer habitually exercised contractual authority on behalf of the taxpayer in the United States. As such, the taxpayer believes that any effectively connected U.S. source income generated is exempt from U.S. taxation pursuant to Article VII (Business Profits) of the Treaty since such profits would not be attributable to a permanent establishment.

3) Article VII (Business Profits) of the Treaty limits the taxation of business profits to those profits that are attributable to a permanent establishment in the United States. As such, IRC Section 864(c)(3) regarding the "force of attraction" rule is rendered inapplicable.

4) IRC Section 884(a) imposes the branch profits tax on a foreign corporation's dividend equivalent amount, which is determined by reference to its "effectively connected earnings and profits". Article X, Paragraph 6 effectively modifies the operation of this IRC provision by referencing business profits attributable to a permanent establishment. Thus, the branch profits tax should not apply.


5) IRC Section 884(f) prescribes rules for the treatment of interest allocable to effectively connected income. This section is modified by the Treaty in that interest allocations are made based on business profits attributable to a permanent establishment.

6) The taxpayer has made sales to U.S. customers in the ordinary course of its business. As provided in Treas. Reg. Section 301.6114-1(d), the taxpayer has treated income from separate sales, whether or not made by an agent (independent or dependent), to different U.S. customers, as a single payment or income item.

7) The corporation's gross receipts from sales to U.S. customers made in the ordinary course of its business totaled approximately US\$328,000.

8) The attached return should be considered the filing of an income tax return for U.S. purposes pursuant to Internal Revenue Regulation 1.882-4(a)(3). As well, the company protects the right to claim business deductions attributable to the U.S. gross income should the company become taxable in the United States as a result of an IRS audit.

9) The taxpayer reserves the right to receive the benefit of deductions and credits attributable to the gross income if it is later determined that the original determination (i.e. that the taxpayer does not have a permanent establishment in the U.S.) is erroneous.

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Cross-Border Employees

- Article XV(2)
 - (i) the employee's remuneration attributable to employment exercised in the source state does not exceed \$10,000 in the currency of the source state; or
 - (ii) the employee is present in the source state for a period or period not exceeding an aggregate of 183 days in any twelve-month period commencing or ending in the fiscal year concerned, **and** the remuneration is not paid by, or on behalf of a *"person"* who is a resident of the source state and is not borne by a permanent establishment in the source state.

Cross-Border Employees

- Intent was to determine
 - Who in fact is exercising functions of employer?

Cross-Border Employees

- Canadian parent company sending Canadian resident employee to work on a temporary basis with a US subsidiary
- Canadian resident employee maintains his employment with the Canadian parent company and **does not** enter into a new or separate employment relationship with the US subsidiary
- If the “person” is the US subsidiary this employee is in fact engaging in a contract of services with the US subsidiary and not protected by Article XV(2)
- If this is found true the US subsidiary will need to reimburse the Canadian parent company for the employment expenses relating to the Canadian resident employee

Cross-Border Employees

- What should we do as the Canadian Parent Company?
 - Implement cross-border arrangement with US subsidiaries
 - Document arrangement including who is instructing the employee

Pension Income



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Pension Income



3 main types

A. Social security–

- Any work in the US will probably entitle you to receive some Social Security benefits (normal US rule of 10 years of work does not apply to Canadians, because of the treaty)
- can apply at age 62, but benefits reduced if under 66 (67 if born in 1960 or later); greater benefits if you wait
- Spousal benefits (50% of pensioner), even if you never worked.
- Exempt from US tax
- No US tax return filing requirement
- 85% Taxable in Canada (report gross and then deduct 15%)

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Pension Income (cont'd)



B. Pension benefits from work done in the US

- Typically a 401K or 403B plan. Similar to a Canadian registered pension plan
- Lump sum withdrawal - withholding tax of 30%
- Periodic withdrawals (payments at regular intervals for a period of more than one year) - withholding tax of 15%
- No US tax return filing required unless wrong withholding
- Canadian tax probably will be higher, but not always - e.g. big donations - no carry forward.
- Can roll a 401K into an RRSP and thus defer Canadian tax, but only makes sense if your Canadian income is sufficient to use the US tax but not so high as to incur a lot of extra tax.

Pension Income (cont'd)



C. US IRA (same as RRSP)

- Eligible to contribute while living and working in US
- 10% Penalty if you withdraw before age 59
- Same tax treatment as 401K
- Roth IRA (similar to TFSA) - usually can withdraw funds tax free, provided they were contributed while a non-resident of Canada

Rental Income



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US Property



Income tax–

- Default tax regime is 30% withholding on gross rents
- IRS can hold tenant or rental agent liable for failing to withhold tax
- Option of filing a 1040NR return with election to treat the rental property as a "US business"
 - then taxed on a net income basis at normal US rates
 - must be filed on a timely basis
- Claiming depreciation is mandatory unlike Canada, which means there will often be a loss for US tax purposes
- All owners need to obtain an ITIN (tax number)
- Need to file a state income tax return in certain states
- Other filings - personal property taxes (SC); BE13-A

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Gains on Sale of Property



- Gain on sale of US property is taxable in US
- Net Proceeds of sale less the depreciated cost = the taxable gain
- 100% of the gain is taxable unlike Canada, but at lower rates
- Unlike Canada, "recaptured" depreciation is taxed at capital gain rates
- Can use accumulated losses that have been carried forward to offset some or all of the gain. (Hence important to file returns annually)
- States generally follow federal rules, but some have their own depreciation rates
- FIRPTA withholding - 15% of gross selling price unless the buyer is going to use it for a residence and the price is less than \$300,000
 - can get it reduced or waived by filing an application
 - calculate actual gain or loss on tax return, get excess refunded

Estate Taxes



- Used to be a huge issue in the USA
- Now only applies to estates greater than \$11 million
- Question arises how to hold US real estate to avoid – Corporation vs Trust vs holding Personally
- Now only an issue for very high asset individuals
- Simplest to hold personally; Corporation creates major problems for Canadian taxes
- Need to file an estate return if value of US assets at death > \$60,000 (real estate and shares in US companies) but no estate tax payable unless total assets exceed threshold

Inheritance from US

- Do I have to file a US tax return?
- How is it taxed in the US?
- How is it taxed in Canada?

Cash Distributions from US Estate

- Not taxable in the US
- Not taxable in Canada

Inherited IRA

- Inherited IRA's are taxable to the beneficiary in the US and typically subject to flat 30% withholding for lump sum payout
- Under the US/Canadian income tax treaty you are eligible to a reduced tax of 15% if you elect to take periodic distributions over 5 years
- Inherited IRA's are taxable to the beneficiary in Canada
- Able to claim foreign tax credit for US taxes paid

Inherited Stock – from estate


- Not taxed in US or Canada when distributed to you as beneficiary
- Capital Gain tax only in Canada based on value that it was distributed to you as beneficiary

Inherited Stock – from trust

- Not taxed in US or Canada when distributed to you as beneficiary
- Capital Gain tax only in Canada based on the original cost basis of the property and fair market value on the date of sale
- For Canadian purposes no step up in basis on date of death that occurs for US trust

Canada Revenue Agency Audits of US Inheritances

- IRS is sharing information with Canada Revenue Agency in regards to Canadian residents receiving US inheritances


Canada Revenue Agency
 Agence du revenu du Canada

P.O. Box 20000, Sudbury, ON, P1A 5C1

Date Jun 5, 2019
 Account Number
 Reference Number

Dear Madam:


Re: Your 2016 income tax return

To protect the integrity of Canada's self-assessment tax system, we regularly review returns. Residents of Canada have to pay tax on their world income, which is the income they earn or receive from all sources, both inside and outside Canada.

We are enclosing the information that our office received from the United States. Please keep this information for your records. The following is a summary of the foreign source income you received. We converted the amount(s) to Canadian funds using the Bank of Canada average annual exchange rate of 1.3248064.

Information on foreign source income


| Payer | Payment Type | Foreign Amount | Currency Type | \$ Amount (CAD) |
|--|--------------|----------------|---------------|-----------------|
| Midland National Life Insurance Company | Pension | 1,410.00 | USD | 1,867.00 |
| Jackson National Life Insurance Co. Inc. | Pension | 1,703.00 | USD | 2,256.00 |
| Midland National Life Insurance Company | Pension | 5,135.00 | USD | 6,802.00 |


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Gambling Winnings from US

- Form 1042-S Issued
- Automatic 30% withholding on winnings federally
- State withholdings vary


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Gambling Winnings from US

- Can I recoup this with withholding?
 - Gambling winnings covered in US/Canadian income tax treaty
 - File Form W-7 to obtain ITIN
 - File Form 1040NR
 - Allowed to offset gambling winnings with gambling losses

10 Gambling—Residents of Canada only. Enter net income in column (c).
If zero or less, enter -0-.

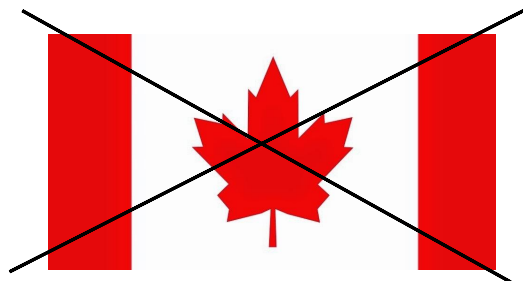
Winnings

- a Winnings
- b Losses

10c

Gambling Winnings from US

- Not taxable in Canada or reported on your T1



Questions???



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