Top 5 Things to Consider with Your *U.S. Taxes*

Every year, the tax season comes and goes, causing people a great deal of stress, even those that have diligently planned for their tax reporting. For some people, as if the obligations of filing in one country isn't enough, there is are situations where an individual may have to file in the U.S., or even may have to file multiple returns. For those people, here are the top 5 things to consider with your U.S. taxes:

1 - U.S. Citizenship

There are a few distinct differences between the Canadian Tax System and the American Tax System, but one of the major differences is that Canadian income tax laws are based on residency, whereas U.S. tax laws are based on citizenship.

U.S. citizens are obligated to declare and report their worldwide income, regardless of where they are residing, unless they are willing to renounce their U.S. Citizenship. This means that U.S. citizens who reside in Canada are subject to the same tax filing requirements as if they were still residing in America.

Unfortunately, that does mean U.S. Citizens residing in Canada are required to file two tax returns each year - because they must file a tax return in Canada based on their residency.

The fortunate part - there are various methods available to help reduce the risk of double taxation.

2 - Owning US Property

If you're a Canadian and you own property in America, there may be a few instances where there will be tax implications.

If you simply own a vacation home in the U.S., and there is no income attached to it and it's used solely for personal use, you don't need to file any U.S. tax returns until the year the property is disposed of.

However, if you rent out your U.S. property, the income may need to be reported to the Internal Revenue Service (IRS). Typically, a non-resident owner is required to pay a specific percentage (30%) of the gross rental amount, which is called a withholding tax.

There are exceptions that can be obtained though, so it's best to speak with you trusted financial advisor.

If you were to sell a U.S. property, you will be required to file a U.S. income tax return to report any capital gains or loss from the sale, and capital gains tax will have to be paid on any profit.

3 - US Estate Tax

If a U.S. Citizen were to pass away, a U.S. Estate Tax return would be required if their worldwide estate is greater than $5.49 million (in 2017). If a Canadian person were to own any U.S. assets at the time of their death, they may be subject to U.S. estate tax. Assets can mean shares of a corporation, real estate, and other U.S. business assets.

Again, fortunately for Canadians, there is a Canada-U.S. Tax Treaty, that may help reduce the exposure to U.S. Estate Tax.

Even if no U.S. Estate Tax is due, you may still be required to file a U.S. estate tax return along with statements reporting benefits provided under the tax treaty.

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4 - Snowbirds

Generally, because the U.S. tax system operates based on citizenship, Canadian Snowbirds don't have to worry about US tax filings, but the IRS does expect a tax return to be filed if a Canadian spends 183 days in America, or a combination of days based on the "substantial presence test".

If you meet the standards for the substantial presence test, you will be required to file U.S. taxes. To meet this test, you must be physically present in the United States on at least:

1. 31 days during the current year, and
2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
    a. All the days you were present in the current year, and
    b. 1/3 of the days you were present in the first year before the current year, and
    c. 1/6 of the days you were present in the second year before the current year.

There are exceptions of course, depending on visa classes for students, some professions like teachers or athletes.

5 - Working in the U.S.

If you're a Canadian resident, but work in the United States, the Canada-U.S. Tax Treaty determines how you are taxed, but if you're not a U.S. citizen, you'll be exempt from U.S. taxation (not filing) if you meet either of the following conditions:

- Your US employment income does not exceed US $10,000.
- You are present in the United States for less than 183 days in any 12-month period beginning or ending in the fiscal year concerned, and your remuneration is not paid by, or on behalf of, a person who is resident in the United States and is not borne by a permanent establishment in the United States.

If you're self-employed, the rules are completely different. If you don't have a fixed base or permanent establishment in the United States, you'll be required to file a treaty-based return to exempt you from U.S. taxation.

With the major differences between Canada and the United States' taxation systems, and the presence of the Canada-U.S. Tax Treaty, it's simply best to speak to someone who specializes in Cross Border Tax.

It should be noted, the U.S.-Canada Tax Treaty could change significantly under President Trump's proposed U.S. tax reforms.

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