“Understanding Your US Tax Reporting Requirements”
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Ontario’s Minister of Finance has approved the Ontario Securities Commission’s Memorandum of Understanding with the U.S. Financial Industry Regulatory Authority. The Memorandum, which focuses on enforcement, facilitates the exchange of information between the regulators. The MOU will take effect in Ontario on January 18, 2012.
Administrative Issues

- Due date of US return – April 15th

- Due date of Canadian return – April 30\textsuperscript{th}

- Extensions Allowed? Yes, for US return; however, may be subject to interest and possible penalty.
FBAR Requirements

- Used to report aggregate account balances in excess of $10,000.

- Form must be completed and filed with the Treasury Department before June 30th.

- Form must be filed each year. This is separate and in addition to the Currency Transaction Report form. Significant penalties for non-compliance.
IRS Forms: 8891

**U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of plan custodian</td>
</tr>
<tr>
<td>2</td>
<td>Account number of plan</td>
</tr>
<tr>
<td>3</td>
<td>Address of plan custodian</td>
</tr>
<tr>
<td>4</td>
<td>Type of plan (check one box):</td>
</tr>
<tr>
<td></td>
<td>Registered Retirement Savings Plan (RRSP)</td>
</tr>
<tr>
<td></td>
<td>Registered Retirement Income Fund (RRIF)</td>
</tr>
<tr>
<td>5</td>
<td>Check the applicable box for your status in the plan (see Definitions in the instructions):</td>
</tr>
<tr>
<td></td>
<td>Beneficiary</td>
</tr>
<tr>
<td></td>
<td>Annuity (Complete only lines 7a, 7b, and 8.)</td>
</tr>
<tr>
<td>6a</td>
<td>Have you previously made an election under Article XVIII(7) of the U.S.-Canada income tax treaty to defer U.S. income tax on the undistributed earnings of the plan?</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>If “Yes,” enter the first year the election came into effect and go to line 7a. If “No,” go to line 6c.</td>
</tr>
</tbody>
</table>
| 7a | Distributions received from the plan during the year. Enter here and include on Form 1040,
IRS Forms: 8621
IRS Forms: 8938

Statement of Specified Foreign Financial Assets

Form 8938
(November 2011)
Department of the Treasury
Internal Revenue Service

See separate instructions
Attach to your tax return

If you have attached additional sheets, check here

Name(s) shown on return
Identifying number

Number, street, and room or suite no. (if a P.O. box, see instructions)

City or town, province or state, and country (including postal code)

For tax year beginning ____, 20__, and ending ____, 20__

Note. All information must be in English. Show all amounts in U.S. dollars. Show currency conversion rates in Part I, line 6(2), or Part II, line 6(2).

Type of filer
a Specified individual
   (1) □ Married filing a joint return
   (2) □ Other individual
b Specified domestic entity
   (1) □ Partnership
   (2) □ Corporation
   (3) □ Trust
   (4) □ Estate

Part I - Foreign Deposit and Custodial Accounts (see instructions)
If you have more than one account to report, attach a continuation sheet with the same information for each additional account (see instructions).

1 Type of account
   □ Deposit
   □ Custodial
2 Account number or other designation
## U.S. Tax Residency Status

<table>
<thead>
<tr>
<th></th>
<th>Resident Alien</th>
<th>Nonresident Alien</th>
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</thead>
<tbody>
<tr>
<td><strong>Taxable Income</strong></td>
<td>All Income</td>
<td>US source</td>
</tr>
<tr>
<td><strong>Filing Status</strong></td>
<td>Any</td>
<td>Single or MFS</td>
</tr>
<tr>
<td><strong>Rates</strong></td>
<td>Graduated</td>
<td>ECI – graduated; Other – 30% of gross</td>
</tr>
<tr>
<td><strong>Itemized deductions</strong></td>
<td>Yes</td>
<td>Limited to US source</td>
</tr>
<tr>
<td><strong>FICA</strong></td>
<td>Maybe</td>
<td>Maybe</td>
</tr>
</tbody>
</table>
The **Totalization Agreement** between Canada and the US

- For instance, the situation where an American working in Canada is paying to both Social Security and CPP based on the same earnings (or vice versa).

- If you have accumulated Social Security benefits in both countries, the agreement makes it easier for you to qualify for benefits by letting you count your Social Security credits in both countries.

- Understanding the terms of when the Agreement applies and how it impacts your retirement income objectives should be explored.
Key Changes to Understand

- Mutual recognition of RRSPs and IRAs
- Taxation of IRAs, 401ks, Roths in Canada
- Importance of Foreign Tax Credits (FTC)
- US Estate Taxes in Canada
- Currency Impact on Investments
Expats In The USA

- Cost-Basis step-up
- Keep assets of Cdn. spouse separate from US spouse
- Use of Incorrect Mailing Address
- Transfers of IRA to RRSP – when and why
- TFSAs and ROTHs – tax savings now but pain later?
- CPP and SS planning if moving back to Canada
Entering Canada – Steps To Take

- Have US property appraised prior to leaving the US
- Cost-Basis Step-up
- Keep assets of Cdn. spouse separate from US spouse
- Change of Address
- Creation of Trusts or Other Estate Friendly Vehicles
Social Security & CPP
Impact of Windfall Elimination Provision

- US Citizen
- 62 Years of Age
- Started work at age 22
- Retired at age 62

Early working years characterized by low salaried income

Final Years' salary is $140,000
Tax Considerations: Relocating to Canada

- Tax Residency is key

- Short-term move – file in both Canada and the foreign country

- Permanent move – Sever Canadian Residency For Tax Purposes – file final Departure tax return in Canada
Common Primary and Secondary Ties

- **Primary:** Vacant Home, leaving dependent spouse in Canada.

- **Secondary:** personal property left behind in Canada, maintaining Canadian bank accounts, Canadian credit cards, professional and/or club memberships in Canadian organizations, maintaining provincial health coverage, Canadian drivers license.
Common Canadian Issues

- Residency status – sever ties to Canada – primary and secondary ties

- Departure Returns - Deemed dispositions – can defer tax owing until actual disposition

- Principal residence – sell or rent to unrelated person, complexities in “change in use” rules
RRSP’s/401(k)/IRA

- RRSP’s Tax protected while in the US – you can also contribute in year of departure and any other year (may not be beneficial to do so)

- IRA’s/401(k) tax protected in Canada until disposition

- May be best to leave IRA/401(K) as is until you need income in the future – not taxed in Canada or U.S. until disposed
Sale of US Home

- Exempt tax on gains up to U$500K if...
  - Lived in for 2 out of the last 5 years
  - Not converted to rental property
  - Depreciation on home office space recapture

- Pay off of foreign denominated mortgage

- Canadian rules for principle residence
What About State Income Tax?

- Residency vs. Non-residency: Not the same concept as U.S.

- Example: California follows Principal Place of Abode and Domicile Test

- California does not follow the US/Canada Tax Treaty
Rules Regulating Cross-Border Investment Advice

- Dealings with clients in the United States are governed by both federal and state laws.
- Exemptions for Canadian Registered Plans:
  - If the plan is self-directed and the firm is registered in the U.S.
  - There must be a bona fide pre-existing relationship with the client before he or she entered the U.S.
- The Member firm and advising employee must comply with anti-fraud provisions of U.S. securities laws.
- The various restrictions with respect to eligible securities registered and eligible for sale in each jurisdiction must be adhered to.
- Caveat – some states listed under a particular model have adopted variations. (California, Texas)
Key Crossborder Portfolio Considerations

- Currency Mis-alignment
  - Currency of **Assets** now do not match currency of **Income** during Retirement

- Portfolio Management
  - Benchmark drag and allocation inefficiencies

- Dual Taxation
  - Dividends, Interest, Gains, ROC – the same in both countries?
Efficient Crossborder Investing

- Canadian Natural Resources CNQ
- Suncor SU
- TransCanada Pipelines TRP
- iShares Energy XEG
- Nexen NXY
- Royal RY
- CIBC CM
- Manulife MFC
- Research In Motion RIM
- Potash POT
- Kinross K
- Goldcorp G
- Barrick Gold ABX
- Bell Canada BCE
- TELUS T
- Rogers RCI.b
- RBC Balanced
- CI Signature Select
- TD Equity Fund
- Fidelity True North
- AGF L/C Dividend

Joint Trading

- Wal-Mart WMT
- Exxon Mobil XOM
- Chevron CVX
- Schlumberger SLB
- Chesapeake CPX
- Financial Spider XLF
- Bank of America BAC
- Citigroup C
- Wells Fargo WFC
- Sanofi Adventis SNY
- Pfizer PFE
- General Electric GE
- Microsoft MSFT
- Apple AAPL
- Coca Cola K

RRSP / LIRA

- Fidelity 2020 FFFDX
- Fidelity Growth & Inc FGRIX
- Vanguard Dividend VDIGX
- Vanguard Capital Value VCVLX
- T. Rowe Price Equity PREIX
- American Funds Growth AGTHX
- Franklin Templeton Growth TEPLX

401k / IRA
Common Crossborder Investment Issues

- Currency should be managed and should match your cash flow needs.

- Manage portfolio as a whole to take advantage of investment opportunities specific to each market.

- Manage Canadian & US accounts (RRSPs, IRAs etc) as a whole portfolio.

- Tax implications
Canadian vs. US Markets

S&P/TSX Index (Canada)
- Financials, 29%
- Energy, 25%
- Metals & Mining, 15%
- Industrial, 5%
- Info Tech, 5%
- Consumer Discretionary, 5%
- Consumer Staples, 6%
- Telecom, 5%
- Healthcare, 2%
- Utilities, 3%

S&P500 Index (USA)
- Financials, 11%
- Energy, 10%
- Metals & Mining, 8%
- Info Tech, 15%
- Consumer Staples, 10%
- Industrial, 10%
- Telecom, 8%
- Consumer Discretionary, 10%
- Utilities, 8%
- Healthcare, 10%
Which Investments Belong Where?

- **401k / IRA**: Yes you can transfer to RRSP but why?
- **ADRs**: Great for yield but withholding tax may cause issues (Switzerland – 35%, UK - 0%)
- **TELUS**: 4% yield, Canadian stock great for IRA with C$ exposure
- **CDN MF**: What about the PFIC, availability of tax slips, UIT
- **US MF**: Overlap of key names and duplication
- **UNITS**: REITs and flow through entities (ROC problems)
### Which Investments Belong Where?

<table>
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<tr>
<th>Security Description</th>
<th>Asset Type</th>
<th>RRSP Account</th>
<th>Investment Account</th>
<th>TFSA Account</th>
<th>RESP Account</th>
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<td>Municipal Bond</td>
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<td>✗</td>
<td>✗</td>
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<td>Roche Pharmaceuticals - RHHBY</td>
<td>ADR</td>
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<tr>
<td>Canon Inc. - CAJ</td>
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<td></td>
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Note: The symbols represent whether the investment is allowed in each account type. ✗ indicates不允许, ✗ indicates允许.
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<th>Security Description</th>
<th>Asset Type</th>
<th>IRA Account</th>
<th>Taxable Account</th>
<th>Roth Account</th>
<th>Coverdell / 529</th>
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