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Several things for non-residents to consider when buying property

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Real-estate purchases by non-residents and RRSP liquidations were among the topics raised in the latest batch of reader letters. Here's what they wanted to know.

Q: My father (not a Canadian resident) wants to buy a rental property in Montreal. We are discussing what the best approach would be. Should he buy it as a foreign investor or give me the money (as a gift) to buy it? I will inherit it when he dies.

A: Nick Moraitis, partner at accounting firm Fuller Landau, says there is no clear-cut answer and several things to consider. For instance, if the father gifts the cash, might there be "gift tax" in his home country? And how do tax rates in the two countries compare, or the tax brackets of father and son; that could make it more advantageous for one or the other to be reporting the annual rental income. There are compliance rules, too, and withholding taxes for non-residents who get rental income in Canada or sell a building. If the father died while still owning the property, any capital gain in Canada would be taxable to his estate. While there would be no tax in Canada if the cash was gifted, it's important that any transfer be documented properly, Moraitis noted. If the father is the owner, the will should specify who will inherit the building and who is responsible for any taxes on death. "The father may want to do a will in Canada to deal strictly with the building and any assets in Canada," Moraitis said.

Q: Are there any consequences to a Canadian owning a condo in Florida on future estate taxes? I heard that having the condo in the estate opens the entire estate to U.S. taxes. Any truth to this, and if so, how does one protect the estate?

A: Attorney **David Altro**, whose firm works in both jurisdictions, said owning a property in Florida does not open the entire estate to U.S. taxes for a Canadian resident and citizen who is not a U.S. citizen as well. "However, the Florida condo may give rise to U.S. estate tax upon death where you pass away after 2010, should the value of such property exceed $60,000 and your worldwide estate exceed $1 million, unless you purchased the condo in a tax-planned cross-border trust," he said.

Q: Do banks withhold taxes when the RRSP of a deceased person is liquidated the same way they do for withdrawals when they're living?

A: No. "There is generally no withholding tax on RRSP proceeds paid out upon death," said Jamie Golombek, managing director of tax and estate planning at CIBC Private Wealth Management. "The exception is if an amount is paid to a non-resident of Canada." Of course, that doesn't mean there's no tax obligation. The fair market value of property held in the RRSP at the time of death is included as income in the deceased's final tax return (although it won't be taxed at that point if the RRSP itself is left to a surviving spouse or dependent child/children or rolled into a Registered Disability Savings Plan).