MOVING TO THE US THE CANADIAN WAY

Why do Canadians move to the US?

If you find the weather in Canada difficult, the Sunbelt certainly offers a better weather alternative. If you have loved ones who you miss living in the States then what can be more important than to be near family? Our clients who move to the US generally enjoy lower income tax and a higher after tax net in their pocket on an annual basis. And of course, if an attractive business opportunity knocks south of the border then why not?

The Threshold Issues

At our Firm we do not generally accept a client who can't qualify for a US immigration visa or green card and US medical coverage.

Green Card

There are several programs available to obtain the right to live in the US including the EB-5 investor program which gets you a green card. A green card means permanent residency. Once obtained you are not bound by any job offer, investment, or temporary right to live in the US.

We like the EB-5 program because it is permanent. But it is not for everyone!
It requires an investment of $500,000 US plus closing costs. It is not a purchase price to obtain a green card. It is an investment in a real estate project as a limited partner approved by the US Citizenship and Immigration Service (USCIS). For example, we successfully placed one of our clients in a hotel development project in Seattle where the Marriott is the hotel operator. The project was built without mortgage financing and the client was able to sell his limited partnership interest a brief delay after completion of the project.

Medical coverage issue

Generally high net worth Canadians are able to afford private medical insurance in the US. But are you insurable? The cost thereof is much less than the annual tax saving to live in the US. However, we always try to tie private medical coverage to US government Medicare programs.

Canadian versus US Income Tax Rates (2009)

CANADA (Ontario)		UNITED STATES (Florida) Married Filing Jointly	
Taxable Income	Tax Rate	Taxable Income	Tax Rate

$38,832 or less	22%	$16,700 or less	10%
$38,833 -$77,664	31%	$16,701-$67,900	15%
$77,665-$126,264	40%	$67,901-$137,050	25%
$126,265 and over	46.4%	$137,051-$208,850	28%
		$208,851-$372,950	33%
		$372,951 and over	35%

The tax savings above can increase by owning a home in Florida as mortgage interest, real estate taxes, condo fees, homeowners association fees, and home insurance are all deductions against your income. And if you keep a cottage back home in Canada you can also deduct all of the same expenses against your US income tax. There are numerous other opportunities including investing in US government tax free bonds whereby the interest earned is tax free in the US.

Your RRSP

There are advantages in collapsing the RRSP after leaving Canada. Instead of almost half of the value lost in taxes to Revenue Canada if you collapse it while a Canadian resident, the proceeds can be brought to the US after departure with a reduced tax rate of 25% or maybe 15% and possibly all or a portion of the 15% may actually be recovered by way of foreign credits if structured properly. In addition to the tax advantages, this takes away the risk of currency fluctuations, obligatory annual filing requirements with the IRS and the problem of the investments not US tax advantaged.

Canadian tax issues upon departure

A Canadian moving to the US may be subject to Canadian departure tax. When you leave Canada you are deemed to have sold all your assets immediately prior to departure at fair market value. Depending on your assets, that may trigger a capital gain tax.

Therefore, it would be prudent before you move to the US, to have a complete cross border financial planning analysis that addresses every issue with the goal of getting the best of both Canadian and US systems. Questions arise as to whether you own a business, are selling a business, have already sold your business or what are your other assets? If there is tax payable to Canada we look to see how to defer, reduce or legally avoid some or all. Where there is tax payable, we apply the advantages in the Canada/US Tax Treaty to obtain “foreign credits” in the US to deduct some or all of the taxes paid in Canada against future income tax in the US.

US pre immigration estate planning

Many Canadians hear stories that Uncle Sam taxes a US resident's estate on death of up to 55% of the value. In 2010 there is no US estate tax. However, the tax is reintroduced in 2011. There may be US tax on death for the value of the estate in excess of $1,000,000. Some or all of such tax may be avoided with proper planning before you move to the US. Planning ahead well before the move provides appropriate time to create cross border trusts and other planning tools which can effectively shield some or all of your estate from US tax on death. Such planning may also provide protection against future creditors and protection for your children's inheritance against creditors and or divorcing spouses of your kids!

Financial planning

Protecting and growing your portfolio once you become a US resident is of the utmost importance. Investments are different and many advantages exist on the US side regarding income, tax, fees to stock brokers and risk/reward. So plan ahead!