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## **Do you have U.S. Tax Ties?**

### **Work With Uncle Sam and make your life easier!**

Enforcement of US Tax Rules and changes to many forms and requirements in the United States means many Canadians have some Extra Tax work to do!

Over the past 2 years there's been substantial media attention paid to some tax initiatives of the U.S. government. Primarily 2 items, the 2011 Offshore Voluntary Disclosure Initiative (OVDI) and the Foreign Account Tax Compliance Act (FATCA), have come to concern some clients. What does this mean? Who does this affect?

There are 1,000,000 Canadian residents who are considered U.S. citizens, or who have a US Green Card. Yes, that counts too! Remember applying 15 years ago, just in case you ever needed one, and it's still sitting in your dresser. Well, congratulations, you now have to file US tax returns!

If you or somebody you know meets this criteria, then these initiatives may affect you. It's a requirement of the U.S. government that all citizens or those with a Green Card complete a US tax or Information return. While this has been a requirement for many years, many haven't completed their US tax filing requirements as there was actually no tax to be paid. This was often the case as the U.S.-Canada Tax Treaty dealt with some issues to try to minimize double taxation.

However, over the past few years as Canadians now have different opportunities for tax deferral, there may be more situations where taxes are owing in the U.S. Examples of this are the preferred tax treatment on items such as RESP's and Tax Free Savings Accounts in Canada. These vehicles don't exist in the US tax system, and are not addressed in the U.S.-Canada tax treaty.

The U.S. assesses personal income tax on its citizens and their worldwide earned income. This is different than Canada, which assesses personal income tax on its residents. This U.S. means of assessing tax has been long standing and is not a recent development. Further, because of certain components of FACTA, completing the U.S. tax return may become more onerous as individual taxpayers may be required to complete an increased number of forms.

What really prompted recent media coverage and concerns from clients was the implementation of FATCA. Under this Act, starting in 2014, all non-U.S. financial institutions are to identify and report certain financial information regarding its U.S. taxpayer clients directly to the IRS annually.

So, how does this affect you? If you are a U.S. citizen, or have a Green Card, you should speak with a U.S. tax preparation expert. It is important that you review your options and identify what U.S. tax reporting requirements you should be accommodating.

Beyond this, it may not be wise to hold a Tax Free Savings Account as it could cause additional tax complications. There are also some investment products that are less favourable depending on your situation.

My recommendation: if this applies to you, speak with your financial advisor and a U.S Tax specialist. Allow an expert to help you assess the next steps you should take to ensure all your tax obligations are met, no matter where you reside!

If you are not a U.S. citizen, but own U.S. property, including real estate, stocks or ownership in a private corporation, you should also review your tax obligations to the U.S. government. There may be issues that affect you and need to be addressed as Uncle Sam is now being very diligent about collecting what is owed.

In terms of investments, there are many items that have great tax effectiveness in Canada, but hold a lot of extra work for US citizens. Some examples of what you might need to avoid are:

- Canadian mutual funds in certain accounts
- Certain ETF's in certain accounts
- TFSA's
- RESP's

\*\*This list needs to be discussed with a financial advisor that understands the requirements and can work with you in meeting these needs. By holding certain products in structures that are not recognized in the US, you are in fact creating additional paperwork, and potentially additional cost. Also, there are times where some of these structures can work, and it's important that you consider the tax benefits for Canada, while employing the tax rules for the US when applicable. There are ways to do that, and the best way of finding your best portfolio and structure is working with an advisor that is set up to handle this.

While tax is certainly not a favourite topic for most, it is a requirement in Canada. Following the law, investing in what works and filing your returns as required may be unpleasant in the short-term, but will certainly make your life easier for the long-term.

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