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The Learning Kurve

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Canadian and US Income Tax Implications of Working in the United States

If you have cross border activity in your business or personal dealings, you can find yourself quickly becoming inundated with a myriad of cross border taxation issues. Cross border taxation issues can become the most complex and stressful part of your cross border activity!

With the welcome of Shawn Roussy, CPA, CA to Logan Katz, we are pleased to now provide in-house Canadian and American cross border taxation services. Our US Canada tax team, led by Shawn, can guide you through the myriad of rules and regulations to ensure your compliance with filing, payment, and withholding requirements. Contact us to book your initial consultation with our team.

This newsletter provides you with some Canadian and US personal income tax implications surrounding employment in Canada and the US. We hope you find this useful.

Are you a resident of Canada or the US?

The first step in assessing your cross border taxation requirements is determining your country of residency.

Canadian Residence Status

The major determinant of an individual's liability for Canadian tax is the individual's residence status. Individuals are subject to Canadian tax on worldwide income if they are residents of Canada or are deemed to be residents of Canada. Non-residents of Canada are generally taxed only on Canadian source income. Residency is a question of fact based on one's particular situation. In addition to primary residential ties (dwelling place and family), certain secondary residential ties, such as personal property in Canada and social and economic ties with Canada, are also collectively evaluated in making a determination of residence status.

United States Residence Status

The major determinants of an individual's liability for US tax are residence status and citizenship. US citizens, as well as lawful permanent residents, are taxed on their worldwide income regardless of where they live. Non-residents of the US are taxed on their US source income only.

Income from US sources falls into two categories - it may be either effectively connected or not-effectively connected to the US. Effectively connected income (which includes compensation for services performed in the US) is subject to tax at graduated tax rates. Not-effectively connected income (which includes interest, dividends, rents, royalties) is subject to a flat withholding tax. Once an individual becomes a US resident, that individual is subject to US tax on worldwide income at graduated rates.
An individual who is not a US citizen is considered a resident of the US if the individual is a lawful permanent resident of the US at any time during the calendar year (holds a 'green card') or meets the "substantial presence" test.

The substantial presence test is a prescribed formula based on the amount of time an individual is present in the US in a calendar year.

US Filing deadline

The US filing deadline for personal tax returns and the due date for payment of tax is April 15th following the tax year in question. The US also imposes a penalty for failure to remit 90% of the tax due by the taxation year end. There is no credit available in Canada for any interest or penalties paid in the US.

A cross border tax advisor can help you determine your residency status for tax purposes based on your particular situation, the provisions in Canadian and US tax laws, and the Canada-US tax treaty.

CANADIAN TAX IMPLICATIONS ON CEASING TO BE A RESIDENT OF CANADA

Taxation of a Part Year Resident

When an individual ceases to reside in Canada part way through a year, special rules apply to determine the Canadian tax liability for that year. The individual is taxed in the regular manner on the aggregate of worldwide income during the period of Canadian residence and certain income from Canadian sources during the non-resident period. Specific rules pertaining to RRSP contributions, personal tax credits, actual charitable donations and medical expenses paid while resident, and income that arises from the deemed disposition of assets on departure from Canada should also be considered.

Canadian personal income tax returns for the year of departure are due by April 30th of the following year.

Deemed Dispositions of Assets ("Departure Tax")

At the time that an individual ceases to be a resident of Canada, the individual is deemed to have disposed of certain types of properties at fair market value. The resulting net capital gain (if any) is taxable. These deemed disposition rules are commonly referred to as the "departure tax" provisions. It should be noted that the departure tax provisions now apply also to property which is "Taxable Canadian Property" (a term used to describe assets which are connected to Canada and which are subject to Canadian tax when disposed of by non-residents).

A cross border tax advisor can determine whether you hold property (investments outside of your registered savings plans) which should be subject to the deemed disposition rules.

CANADIAN TAX WHILE A NON-RESIDENT

Non-residents are generally only subject to Canadian tax on income which is sourced to Canada or which has a connection with Canada. Certain types of income, such as business and employment income, are taxed at graduated rates under the Act. Other types of income, such as interest and dividends, are subject to a flat rate of withholding tax at source. In limited circumstances, it is possible to elect that income, which would otherwise be taxed at a flat rate, be taxed at graduated rates.

Generally, on a tax return reporting income taxed at graduated rates, the non-resident is not permitted to claim the personal tax credits to which an individual would be entitled to as a resident of Canada.

GET ONSIDE WITH COMPLIANCE

In recent years, the Internal Revenue Service has been actively publicizing the obligation of Canada-U.S. dual citizens to file both U.S. annual income tax as well as certain required annual U.S. asset disclosure returns. Recent studies show that only a small percentage of these estimated one million dual citizens seem likely to be filing any form of U.S. tax or information return.

If you have cross border activity in your business or personal dealings, you are strongly advised to consult a cross border tax advisor to ensure you are in compliance with both the Canada Revenue Agency and the Internal Revenue Service.

This'n That at Logan Katz

TFSA
January 2013 newsletter correction

The tax free savings account limit is $5,500 for 2013. An incorrect amount was indicated.

Logan Katz in the Community

2013 Institute of Chartered Accountants - Free Tax Clinic

For over ten years, Logan Katz has sponsored the Institute of Chartered Accountants of Ontario's Free Tax Clinics and participated in the event again this year! Our accounting staff, along with hundreds of other Chartered Accountants and their associates, volunteered their time to assist low-income families and individuals prepare their tax returns, free of charge. Altogether, our staff prepared 33 tax returns – great job, everyone!

Ottawa Regional Cancer Foundation Tax Clinic

Logan Katz will be participating in the Ottawa Regional Cancer Foundation's Free Income Tax Information Clinic and Family Assessment Program, to be held on Monday, March 25th from 8:30 a.m. – 4:30 p.m. at the Maplesoft Centre in Ottawa. The program will only be available in English and is by appointment only. To register for this program, please visit the Ottawa Regional Cancer Foundation's link here or contact us for additional information

February On-Line Poll

The Logan Katz February on-line poll asked "With the Tax-Free Savings account limit increase, do you plan on opening an account?" Our results were: Yes 6%; No 6% and 88% already have a tax free savings account. Visit our website to participate in our monthly polls.