Moving your U.S. retirement plan to Canada

Our close proximity to the U.S. has provided many Canadians[1] with the opportunity to work south of the border for part of their careers.

If you reside in Canada but have previously worked in the U.S. and contributed to a U.S. retirement plan – such as a 401(k) or traditional Individual Retirement Account[2] (IRA) – you may want to consider transferring the plan to Canada; especially if you have no plans to return and work in the U.S.

As a Canadian resident, transferring your U.S. retirement plan into a Canadian Registered Retirement Savings Plan (RRSP) is possible, as long as you are under the age of 71 – since transferring such a plan to a RRIF is not permitted. And, while transferring won't impact your current RRSP contribution room, there are both U.S. and Canadian income tax issues to consider.

U.S. tax implications

Canadian residents may face the following U.S. tax implications when transferring their U.S. retirement plan to Canada:

U.S. Early Withdrawal Penalty
If you are under the age of 59.5, an amount equal to 10% of the distribution (i.e., amount withdrawn from the U.S. retirement plan) will generally apply to the withdrawal.

U.S. Withholding Tax
A lump sum distribution from a U.S. retirement plan to a non-resident of the U.S. is subject to U.S. withholding tax of 30%. However, the Canada/U.S. Income Tax Treaty allows for a reduced withholding tax rate of 15% when the withdrawal is considered a "periodic payment." This reduced withholding tax rate may also be available for lump sum distributions, depending on the position taken by your plan's U.S. administrator. It is therefore important to confirm, in advance, the withholding tax rate that will be used by your plan's administrator.

Canadian tax implications

The amount withdrawn from your U.S. retirement plan (i.e., the amount before the U.S. early withdrawal penalty and U.S. withholding tax is deducted) must be included as taxable income on your Canadian income tax return in the year the funds are received. However, if you contribute the withdrawal from your U.S. retirement plan into an RRSP, you may be able to claim a tax deduction which will offset some, or all, of the income inclusion amount if the following conditions are met:

- The amount transferred to your RRSP must be attributable to work performed while you were a plan member, during a period of time when you were not a resident of Canada for income tax purposes.
- The withdrawal from your U.S. retirement plan must be a lump sum, not periodic payments. Even if your U.S. plan administrator chooses to apply the "periodic payment" withholding tax rate of 15% to your lump sum transfer, the amount will qualify for a tax deduction.
- The transfer of funds to your RRSP must be made within 60 days after the end of the calendar year in which the U.S. retirement plan is collapsed.

To fully offset the income inclusion from your U.S. retirement plan withdrawal, you may want to consider "topping up" your RRSP contribution so that the amount contributed equals the gross amount withdrawn from your U.S. retirement plan.

Example: Let's assume you collapse your U.S. retirement plan (before you are 59.5 years old) and withdraw a lump sum of $50,000. If your plan's administrator applies the 15% periodic payment withholding tax rate, you may only receive $37,500 after U.S. taxes have been deducted as per the following:

Lump Sum Withdrawal	$50,000
Less — U.S. Early Withdrawal Penalty	$5,000 ($50,000 X 10%)
Less — U.S. Withholding Tax	$7,500 ($50,000 X 15%)
Total Tax Withheld	$12,500
Net Amount	$37,500

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Since you will be required to report the full $50,000 of taxable income on your Canadian income tax return, you may want to contribute an additional $12,500 to your RRSP to bring your total RRSP contribution to $50,000. The lump sum transfer from your U.S. retirement plan to your RRSP, and any "top up" contribution, will not impact your current RRSP contribution room.

The U.S. withholding tax paid on the U.S. retirement plan being transferred can be claimed on your Canadian income tax return as a foreign tax credit, to help offset your Canadian income tax liability on other sources of income, and minimize any double taxation. Additionally, based on a recent change to the Canada Revenue Agency's (CRA) administrative position, the U.S. 10% early withdrawal penalty may also be claimed as a foreign tax credit to further mitigate any double taxation.

From a tax perspective, the feasibility of transferring your U.S. retirement plan is based on the ability to recover the U.S. taxes withheld (i.e., U.S. withholding tax and the potential U.S. early withdrawal penalty) by using this U.S. tax to offset your Canadian tax liability in the year you transfer the plan. If the U.S. taxes withheld exceed your Canadian income tax liability, the remainder of the U.S. taxes cannot be carried forward to offset Canadian income taxes in future years. Therefore, it is generally recommended that an estimated Canadian income tax calculation be completed by your tax advisor when considering such a transfer.

Other considerations

Depending on your personal tax situation, it may be possible to transfer your U.S. retirement plan to your RRSP on an overall tax neutral basis. In addition to the tax considerations, when making a decision on a possible transfer it is important to consider such things as:

- Your age – will early withdrawal penalties apply?
- Your citizenship status – there are additional considerations for U.S. citizens.
- Your retirement plans – do you intend to retire and stay in Canada for the remainder of your lifetime?
- Potential exposure to foreign exchange fluctuations.
- Your current and future cash flow requirements and other sources of retirement income.
- The possible application of U.S. estate tax – since a U.S. pension is considered to be a U.S. asset for U.S. estate tax purposes.

In light of these considerations, particularly if a transfer can be completed on an income tax-neutral basis, many Canadians choose to bring their U.S. retirement plan "back home" so they can effectively consolidate and manage their retirement assets as part of their overall investment portfolio.

If you're contemplating transferring your U.S. retirement plan to your RRSP, please speak with your BMO financial professional, he/she can refer you to a cross-border tax professional to determine the best course of action for your particular situation.

BMO Financial Group publishes reports on a variety of investing, tax and estate planning topics. Readers of this article may also be interested in: **U.S. Estate Tax for Canadians**

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For more information, speak with your BMO financial professional.

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[1] This article applies to Canadian residents who are not U.S. citizens or Green Card holders.

[2] The income tax issues related to a transfer of a SIMPLE IRA, a Roth IRA or a SEP IRA to an RRSP differ from the transfer of a traditional IRA and is beyond the scope of this article.

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