

A background image showing a laptop, a smartphone, a spiral notebook, and a pen on a red textured surface. The text is overlaid on a white rectangular area.

Live and Invest Overseas

Taxes for Canadians Going Offshore
by
George C Gonzalez, PhD

Outline

- I. Residency v. Non-residency
- II. Taxation of Residents
- III. Taxation of Non-residents
- IV. Tax Treaties
- V. The Departure Tax

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Tax Residency

- Residency for tax purposes has its own set of definitions.
- It is different from residency for other purposes. For example: residency for provincial health plans.

Residency v. Non-residency

Canadian tax **residency** means:

- You pay tax on your world income, i.e., income from all sources, both Canadian and foreign.

Canadian tax **non-residency** means:

- You pay tax on Canadian source income only.

Residency: Tests

- Many different tests.
- It is not as simple as the “six-month” rule.
- It is possible to spend less than six months of the year in Canada yet still be considered a tax resident.

Residency: Tests (cont'd)

- One test, for example, falls under the “significant residential ties” test.
- It says that if you maintain a dwelling place in Canada after you expatriate, you are still considered a resident.

Residency: Tests (cont'd)

- ... or if your spouse or dependant continues to live in Canada, you are still considered a resident yourself.

Residency: Tests (cont'd)

- It is recommended that you become familiar with the different tests.
- This CRA Tax Folio has good guidance:
<https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income-tax-folios-index/series-5-international-residency/folio-1-residency/income-tax-folio-s5-f1-c1-determining-individual-s-residence-status.html>.

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Taxation of Residents

- There are special rules for the taxation of some foreign income items. Examples:
 - Foreign dividend income
 - Foreign tax credits
 - Foreign Accrual Property Income (FAPI) earned by a Canadian-owned foreign corporation

Foreign Dividend Income

- No gross-up (like for eligible or non-eligible dividends from Canadian corporations)
- No dividend tax credit, either.

Foreign Dividend Income (cont'd)

- Foreign tax credit available for foreign taxes paid on foreign dividend income.

Foreign Tax Credits

- A credit may be taken for foreign taxes paid on foreign source income.
- Examples of foreign source income on which foreign taxes may be paid:
 - Dividends
 - Rental property income

Foreign Tax Credits (cont'd)

- Foreign tax may have to be paid through tax withholding.
- Such a withholding tax depends on the country of origin's laws

Foreign Activity Reporting

- There are various annual foreign reporting forms that may be required.
- A well-known one is Form T1135 (Foreign Income Verification Form)

Foreign Activity Reporting (cont'd)

- Other forms that may be required:
 - Form T1134 (shares in some foreign corporations)
 - Forms T1141 and T1142 (foreign trusts)

Foreign Activity Reporting (cont'd)

- Be sure to comply with the filing requirements!
- The penalties for non-compliance can be severe.

Foreign Activity Reporting (cont'd)

- This CRA reference page lays out the penalties:

<https://www.canada.ca/en/revenue-agency/services/tax/international-non-residents/information-been-moved/foreign-reporting/table-penalties.html>

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Taxation as a Non-Resident

- Taxed on Canadian source income only.
- On most types of income, tax withholding applies.
- For other income types, must file an annual non-resident income tax return (Form 5013-R).

Common Types of Income Subject to Tax Withholding

- CPP and OAS
- Private pension income
- Registered plan withdrawals (RRSP, RRIF, etc.)
- Rental property income

Tax Withholding Rate

- The default rate for tax withholding is 25%.
- The rate may be lower if a tax treaty applies (more on this later).

Election to File in Lieu of Withholding

- For some types of income subject to withholding:
 - you may elect to file a return instead of paying tax through withholding.
 - It is worth looking into this election as it may save on your tax bill.

Election to File in Lieu of Withholding (cont'd)

- Types of income for which election is possible include:
 - Pension (CPP, OAS and private)
 - Rental property income

Election to File in Lieu of Withholding (cont'd)

- The election to file a return instead of pay withholding tax may be especially beneficial for rental property income.
- Main reason: tax withholding rule is based on gross rental income (rather than net income after deductions).

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Tax Treaties

- Canada has tax treaties in force with about 95 countries.
- A tax treaty overrides Canada's, and the
- other country's, general tax laws when there would otherwise be a conflict or contradiction.

Items Typically Covered Under a Tax Treaty

- Definition of residency
- Types of income subject to tax by each country
- Tax withholding rates on different types of income paid (e.g., dividends, rent, royalties, etc.)

Tax Treaties

- Very important to find out if there is a treaty between Canada and your new country of residence.
- ... and determine how it affects your taxes.

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Departure Tax

- Applies on your last day as a resident.
- You are deemed to have disposed of your property at fair market value (FMV)...
- ... and to have immediately reacquired the property for the same amount.

Departure Tax (cont'd)

- The effect of “deemed dispositions” is that you will have gains and/or losses in your final tax return as a resident.
- This in spite of the fact that you have not actually sold the property.

Departure Tax (cont'd)

- Depending on the cost base and the fair market value of each property, you could potentially have large gains resulting in a high tax bill.

Departure Tax (cont'd)

- Not all property is subject to the departure tax.
- Examples of exempt property:
 - Canadian real estate
 - Registered plans (RRSP, RRIFs, etc.)

Departure Tax (cont'd)

- An election to defer payment of the departure tax is available.
- If the deferred amount of tax is above a threshold (about \$16,000) then the CRA will require a security deposit.
- Also possible to arrange for a collateral security agreement with the CRA.

Departure Tax Planning

- If you are planning to expatriate, it is highly recommended that you do an early projection of the departure tax.
- With advance planning, you may be able to minimise the impact of the departure tax.

Table of Partial List of Countries That Have a Tax Treaty with Canada

COUNTRY	TAX TREATY WITH CANADA?		COUNTRY	TAX TREATY WITH CANADA?
Argentina	YES		Italy	YES
Australia	YES		Laos	No
Belize	No		Malaysia	YES
Brazil	YES		Malta	YES
Cambodia	No		Mexico	YES
Chile	YES		Montenegro	No
China	YES		New Zealand	YES
Colombia	YES		Nicaragua	No
Costa Rica	No		Panama	No
Croatia	YES		Paraguay	No
Cyprus	YES		Philippines	YES
Dominican Republic	YES		Portugal	YES
Ecuador	YES		Romania	YES
El Salvador	No		Singapore	YES
France	YES		Slovenia	YES
Greece	YES		Spain	YES
Guatemala	No		Taiwan	YES
Hungary	YES		Thailand	YES
Honduras	No		Turkey	YES
India	YES		United States	YES
Indonesia	YES		Uruguay	No
Ireland	YES		Vietnam	YES

Source: <https://www.canada.ca/en/department-finance/programs/taYES-policy/taYES-treaties.html>

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