



Tax Considerations for Canadians Interested in US Ownership

by PJ Wade

According to one well-known international tax expert, buying and owning US real estate is no more complex than purchasing and owning in your own province -- as long as you follow all the income tax rules involved. It's not the properties, but legal and tax differences between the two countries, and variations between states, that add complexity.

The solution? David Ingram, Principal of Vancouver-based [CEN-TA Services](#), suggests you search out a Canadian income tax advisor, experienced in dealing with US taxes, *before* you locate the US property of your dreams. US tax advisors know their own federal and state tax issues, but Ingram says they are rarely familiar with the complexities of Canadian income tax law because, with a population 10 per cent of that in the US, Canada's tax issues are not mainstream knowledge in the US.

"Ask what forms should be used," said Ingram suggesting one way to determine whether an accountant or other tax advisor has hands-on practical experience filing US returns. Ingram is not a chartered accountant, but graduated from the University of British Columbia's Urban Land Economics program and claims 43 years experience with tax, real estate and immigration issues, much of it in the public eye through the media, his books and the Internet. He stresses the importance of settling on a tax advisor early on, but does not believe that the choice of state or property should be based on tax laws since filing rules change each year for federal, state and provincial tax.

Whether considering a snowbird vacation condo or accepting a job transfer to the States, cross-border buyers typically seek out professional advice for the actual purchase and move, but ignore tax and estate planning until tax time or a crisis. That after-the-fact approach removes the opportunity for overall estate planning and tax minimization.

Ingram offers these tips and suggestions for Canadian considering US real estate ownership:

- Some states, like California and Vermont, have state income tax while others, including Florida and Nevada, do not: "It is irrelevant if you pay state tax or not as it is just a function of [US] federal tax"
- Rent out your US real estate and the rental income must be reported on a federal and any state return required. Tax schedules are used to calculate depreciation, an allowable expense on income properties. On Canadian returns, the capital cost allowance schedule covers depreciation.
- Marital status and who owns the US property is important, too. If both spouses are on title, then both must file federal and state returns. Failure to file may carry penalties as much as 30 percent of the gross income, with no expenses or deductions allowed.
- Canadians who rent in Canada may be entitled to a capital gains exemption if they designate their US property as principal residence. This would make any profit earned when the real estate is sold exempt from Canadian, but not US, tax.
- Province of residence is an issue too. In Ontario, 153 days of residency should qualify you for OHIP, but in other provinces, more than 183 days are necessary for coverage by the provincial health plan.
- Canadians paying US tax may claim foreign tax credit federally and provincially.

"I see more clients with successful rental properties in the United States than here in Canada," said Ingram, who finds many clients rent out their US property or buy through a shared program like hotel condos. "When they buy in the United States, they tend to do a better job with their investment. They pay more attention to details. We rarely have someone coming in with a loss in the US."

Researching government resources will also be useful, for example:

- If you were born outside Canada after Feb 14, 1977, you may need to take steps to keep your [Canadian citizenship](#);
- Keep up to date on changes in US Entry Requirements through the federal [Canada Border Services Agency](#);
- The Canada Revenue Agency (CRA) taxes your US income, except US lottery or gambling winnings. The CRA includes suggestions in its report "[Canadian Residents Going Down South](#)" for Canadians who spend part of the year in the US and still maintain residential ties in Canada.

As a Canadian resident who visits the US on extended stays, you are considered either a "resident alien" or a "non-resident alien" of the US for tax purposes. Resident aliens are generally taxed in the U.S. on income from all

sources worldwide, and non-resident aliens are generally taxed in the U.S. only on income from U.S. sources. If you were in the US in 2006 for less than 183 days, you were probably a non-resident alien. (The "substantial presence test," which calculates the number of days over the current and two previous days is the true determinant.)

Without the residential ties of a home, crossing the border becomes more complex.

"There is something you have to have -- a full-fledged home in Canada -- to be a visitor in the United States," said Ingram. "So you can't buy your home and go down there for 12 months or 9 months and not keep a Canadian home. That's a connected phone and heat and light and not renting the house out when you are gone. It must be available to you if you are turned back at the border."

Ingram suggests a "Border Kit," which includes documents or copies of information that verifies your "residential ties" -- ownership of a house or condominium, mortgage commitments, details regarding a spouse or common-law partner and dependants who stay in Canada while you are in the U.S., ownership of personal property like as a car, proof of employment or the last 3 years' tax returns, a Canadian driver's licence, Canadian bank accounts, Canadian credit cards, and hospitalization insurance with a province or territory of Canada.

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