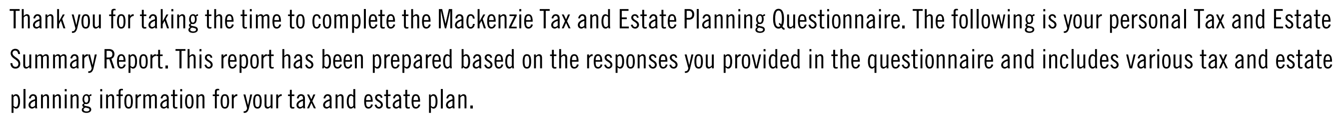

Thank you for taking the time to complete the Mackenzie Tax and Estate Planning Questionnaire. The following is your personal Tax and Estate Summary Report. This report has been prepared based on the responses you provided in the questionnaire and includes various tax and estate planning information for your tax and estate plan.

The information contained in this letter is based on the provisions of the Income Tax Act (Canada) and the Income Tax Regulations in force at January 1, 2010 (the "Act"). The Act, its judicial interpretation, and the administrative policies of the Canada Revenue Agency (CRA), are subject to change. Any changes to these laws and regulations could impact the information represented in this report.

This report should not be construed to be financial, investment, tax, legal, or accounting advice. Rather, it provides you with general tax and/or estate planning information that you may wish to consider. This report does not exhaust all alternatives and combinations nor does it provide comprehensive information.

This report is not a substitution for the services of a legal, tax or licensed insurance specialist. You are encouraged to consult with such a professional before using the information in this report.

Mackenzie and its affiliates assume no liability for any damages that may be incurred by you as a result of relying on the report's content.

U.S. Connections

Even though you are a Canadian resident and not a United States citizen, your U.S. connections may give rise to U.S. income tax and/or U.S. estate tax liabilities. Those connections may also create issues upon your death or if you become mentally incapable. The following information and ideas may help you to minimize the potential adverse consequences of your U.S. connections.

Consider avoiding being considered a U.S. resident who is required to file annual U.S. income tax returns

If you regularly spend extended time periods in the U.S., you may be considered a U.S. resident for tax purposes. Although a U.S. "B-2" visitor's visa allows you to spend a maximum of 183 days each year in the U.S., if you regularly spend more than 122 days (approximately four months) each year in the U.S. you will likely, after four years, meet the U.S. "substantial presence" test. This means that you will be considered a resident of the U.S. for tax purposes, and be required to file a U.S. income tax return annually in addition to your Canadian income tax return.

However, as long as you do not exceed 183 days (or part days) in the U.S. in any given year, the annual tax filing requirement can be avoided by filing IRS form 8840 to show that you have a closer connection to Canada than to the U.S. Factors which show a closer connection to Canada include a home, job, personal belongings, and family located in Canada. Note that the likelihood of being caught "out of compliance" with the substantial presence test has increased significantly because electronic tracking of people who cross the border is becoming more usual and shows the length of time spent in the U.S..

Consider using the net-rental-income method to report rental revenue in order to eliminate U.S. withholding tax

As a non-resident alien, if you earn rental revenue from U.S. real estate your tenant is obligated to withhold 30 percent of rental payments and remit the money to the Internal Revenue Service. This withholding tax, because it is based on gross rental revenue, may be greater than your actual U.S. income tax liability if allowable expenses were deducted from the rental revenue. To resolve this issue, you are entitled to elect the net-rental-income method of reporting your rental revenue by obtaining an individual taxpayer identification number (ITIN) and giving a copy of IRS form W-8ECI to your tenant. Once you have made this election, your tenant will no longer need to withhold tax from rental payments but you will have to file IRS form 1040NR annually by June 15 (for the prior calendar year's rental activities) to report and pay U.S. tax on your net rental revenue (income less related allowable expenses).

Claim foreign tax credits on your Canadian income tax return

Income (including capital gains) which you earn from your U.S. real estate or financial investments is taxable in both the U.S. and Canada. However, in order to avoid double taxation, you can generally claim a foreign tax credit on your Canadian income tax return which equals U.S. taxes paid. That credit is generally available for net taxes paid, including U.S. withholding taxes. For example, interest and dividend income earned from U.S. financial investments is subject to U.S. withholding tax. However, you do not need to file a U.S. income tax return to claim a refund of any excess tax paid. Simply report the foreign investment income in your Canadian income tax return and claim a foreign tax credit for the U.S. withholding tax deducted from that income.

Take steps to minimize exposure to U.S. estate tax

Non-resident aliens (including Canadians) may be subject to a U.S. estate tax liability upon death, applied as a percentage of the fair market value

of certain U.S. situs assets owned by the non-resident alien. Taxable U.S. situs assets include U.S. real estate, personal assets (such as vehicles, artwork, or furniture) located in the U.S., shares in U.S. based public or private companies (even if held in an RRSP, RRIF,TFSA or RESP), U.S. pension plans (such as a 401(k), IRA, or Roth IRA), and debt obligations of U.S. governments, U.S. based public or private companies, or U.S. resident individuals.

If you own any of those assets, or if you are considering obtaining any of those assets, you should consult a legal or tax professional who specializes in cross-border tax and estate planning matters to determine the best ways of minimizing (or eliminating) any potential U.S. estate tax liability.

Prepare documents appointing representatives to make decisions if you become mentally incapable

If you own U.S. real estate and/or regularly spend extended time periods in a particular U.S. location, consult a lawyer in the jurisdiction in which the real estate is located or where you spend time who specializes in estate planning and estate administration. That lawyer can prepare a document (usually called a power of attorney) appointing one or more representatives to make financial and legal decisions for you and another document appointing one or more representatives to make personal care and health care decisions for you. (Note that, in some jurisdictions, it may be possible to combine all four types of decisions in one document.) These documents should specify the powers which you want the representatives to have but which are not given to them by law (perhaps the power to use your assets to make gifts and/or the power to take payment for their services) and any restrictions which you want to put on the powers which are given to them by law. The U.S. documents will be in addition to similar documents which you have in Canada, and care needs to be taken to ensure that documents in one jurisdiction do not revoke documents in the other jurisdiction and that there is no confusion about which document applies in which jurisdiction. The appointments made in one jurisdiction do not need to be the same as the appointments made in the other jurisdiction.

Prepare a will which is valid in the U.S. jurisdiction in which your real estate is located or review your existing will for that jurisdiction

If you own U.S. real estate, consult a lawyer in the jurisdiction in which the real estate is located who specializes in estate planning and estate administration. That lawyer can prepare a will or review and update your existing will for that jurisdiction. A U.S. will is part of your total estate plan, and care needs to be taken to ensure that it is coordinated with all of your other estate planning documents and strategies. In particular, your U.S. and Canadian wills must not revoke each other, and there must be no confusion about which will applies to which assets in which jurisdiction. The executor and trustee appointments made in one will do not need to be (and likely will not be) the same as the appointments made in the other will.

Minimize U.S. withholding tax when selling your U.S. real estate

As a non-resident alien, if you sell U.S. real estate the purchaser is generally obligated to withhold 10% of the purchase price and remit the money to the Internal Revenue Service as an installment on any U.S. capital gains tax liability which may eventually arise. Also as a result of the sale, you will have to file IRS form 1040NR by June 15 in the year following the sale to report any gain or loss realized on the sale. The withholding tax can be reduced if 10 percent of the purchase price will exceed the actual U.S. capital gains tax liability and you obtain a withholding certificate from the IRS indicating the appropriate amount of withholding tax, if any, that should be remitted to the IRS by the buyer. In addition, the requirement for withholding tax can totally be avoided if:

- the gross selling price is less than US$300,000 and the buyer intends to occupy the property as a principal residence for at least one-half of the time that he or she owns the property over the two years following the sale; or

- you obtain an IRS individual taxpayer identification number (ITIN).

Prepare your RRSP for your move to the U.S.

If your marginal income tax rate is higher than 25 percent, consider not collapsing your RRSP before you move to the U.S. If you collapse it, the amount withdrawn will be taxed in Canada as income at your marginal rate. (Note that, when emigrating from Canada, your marginal income tax rate may be much higher than in previous years because you will be selling (or, if not selling, deemed to dispose of) capital assets which may have appreciated in value since you acquired them. This generally results in greater taxable income than in previous years). Instead, if you need the cash, wait until you are a resident of the U.S. to collapse your RRSP, and only a twenty-five percent withholding tax will be retained by Canada. (Note that U.S. taxation will also apply, which could adversely affect this strategy.)

Better yet, if you do not immediately need the money from the RRSP, let it grow tax-deferred within the RRSP and then convert it to a RRIF at a later date. Canada withholds only 15 percent of periodic withdrawals from a RRIF as long as your cumulative annual withdrawals do not exceed twice the required minimum RRIF withdrawal for the year or 10 percent of the fair market value of the plan, whichever is greater.

In addition, before you move to the U.S., consider crystallizing accrued gains in your RRSP by selling assets in your RRSP and buying them back at current market prices. This would bump up the cost base of your RRSP to current market values, limiting your U.S. tax liability when funds are eventually withdrawn. There are no Canadian tax consequences to this strategy.

Closing Comments

The information outlined in this report represents some of the key tax and estate planning considerations that, if implemented properly, could assist you in achieving your goals and objectives.

If you have any questions pertaining to the information outlined in this report, please contact your financial advisor who can help find the answers for you, either through contacting your professional accountant or lawyer or the Mackenzie Tax & Estate Planning Group.

Also, it is recommended that you work with your financial advisor to update your tax and estate plan whenever your personal or financial situation undergoes a significant change. This could include (but is not limited to) an inheritance, retirement, or the addition of new family members. A periodic review will also help to ensure any changes to tax and estate laws are reflected in your overall plan.