

# Estate tax update: US estate tax exposure for Canadians

February 7, 2014

## In brief

Canadian residents (who are not US citizens) may be subject to US estate tax if they die owning certain US assets, such as shares of US corporations, US real estate and US business assets.

Under the Canada-US Tax Treaty (the Treaty), Canadian residents will now have a US estate tax liability only if their worldwide assets are valued at more than \$5.34 million.<sup>1</sup>

This *Tax Insights* sets out the potential exposure of Canadians to US estate tax. All amounts are in US dollars.

## In detail

### If your worldwide estate exceeds \$5.34 million

If the value of your worldwide assets exceeds \$5.34 million, you will be required to pay US estate tax based on the value of your US assets. The tax rate starts at 18% and can reach as high as 40% for US assets exceeding \$1,000,000.

Fortunately, Canada's tax treaty with the United States allows you to reduce your estate tax liability by claiming a tax credit (referred to as the unified credit) equal to the greater of:

- \$13,000
- $\$2,081,800^2 \times \frac{\text{value of your US assets}}{\text{worldwide assets}}$

For example, if your US stock portfolio accounts for 10% of the value of your worldwide estate, you will be entitled to a unified credit of \$208,180 ( $\$2,081,800 \times 10\%$ ).

### US estate tax rates and credits

#### Unified credit

For example, David, a Canadian resident (who is not a US citizen), owns a US stock portfolio worth \$1 million. His

entire estate is valued at \$10 million.

As shown in the table, if David dies in 2014, his estate can claim a unified credit equal to \$208,180 (10% of \$2,081,800), reducing the estate tax liability to \$137,620.

#### What if David dies in 2014?

US estate tax before credits	\$345,800
Less: Unified credit	\$208,180
US estate tax liability before marital credit	\$137,620
Less: Marital credit	\$137,620
US estate tax liability after unified and marital credits	Nil

1. The *American Taxpayer Relief Act of 2012* establishes an exemption amount of \$5 million and indexes this amount for inflation annually. The indexed exemption amount is \$5.34 million for 2014.  
2. \$2,081,800 is the US estate tax on \$5.34 million of assets.

### **Marital credit**

In addition to the unified credit, the tax treaty provides a marital credit if the US assets pass to a spouse on death. The marital credit equals the lesser of the unified credit and the amount of the estate tax.

If David were to leave the US stock portfolio to his wife Kylie, also a Canadian resident (who is not a US citizen), his US estate tax liability would be completely eliminated.

### **US estate tax is often greater than Canadian tax**

On death, a taxpayer will pay Canadian tax on any accrued gain on

the US asset and will also be subject to US estate tax on the full value of the asset. Canada will allow a foreign tax credit for US estate tax paid on the US assets. In the end, an individual generally pays the higher of the two taxes.

Because Canadian capital gains rates are significantly lower than the top US estate tax rate, the individual likely will pay tax at the US estate tax rate.

In addition, the provinces and territories generally do not allow a foreign tax credit for US estate tax paid. As a result, the deceased may be subject to some double taxation.

### **When do you have to file an estate tax return?**

Even if no US estate tax is due, you may still be required to file a US estate tax return along with a statement claiming the benefits provided under the tax treaty. In many instances the transfer agents will not agree to the transfer of US property until the estate can provide proof of clearance from the Internal Revenue Service.

The filing deadline for a US estate tax return is nine months after the date of death.

### **Let's talk**

For a deeper discussion of how these tax issues might affect you, please contact the following:

Beth Webel  
+1 (905) 815 6400  
[beth.webel@ca.pwc.com](mailto:beth.webel@ca.pwc.com)

Nadja Ibrahim  
+1 (403) 509 7538  
[nadja.ibrahim@ca.pwc.com](mailto:nadja.ibrahim@ca.pwc.com)

Pat Blair  
+1 (604) 806 7063  
[pat.j.blair@ca.pwc.com](mailto:pat.j.blair@ca.pwc.com)

2014 budgets: PwC will keep you up-to-date on tax changes in Canada's federal and provincial budgets.  
Go to [www.pwc.com/ca/budget](http://www.pwc.com/ca/budget)