

Canada/US Cross-Border Tools

Top Ten US Tax Mistakes by those with Canadian Cross-Border Issues

People with income from both the United States and Canada often find that their Canadian income items were not reported properly on their U.S. income tax return. The following are common errors:

1. Having the incorrect amount of withholding - the US/Canada Tax Treaty specifies the rate of withholding on various types of income. If the correct withholding did not take place, a return must be filed to pay or to receive a refund of the difference in tax.
2. Rental property in Canada - NR6's should be filed at the start of each year to allow withholding on the net income rather than gross. Actual results are reported to Canada via a T1 filed under Section 216. The U.S. return requires a longer period of depreciation on property when located outside of the U.S.
3. Ownership in foreign partnerships and corporations - may require additional filings to be attached to the U.S. return. Passive income realized within the corporation is treated as received by the shareholders or partners whether a dividend has been paid or not.
4. Not reporting worldwide income - citizens and residents of the U.S. are required to report their worldwide income from all sources, foreign and domestic.
5. Disclosure of foreign bank and brokerage accounts - Treasury form TDF 90.22 is used to report the ownership of and balances in any bank or brokerage account that you may have outside the U.S. This includes RRSPs and RRIFs.
6. Not disclosing a treaty-based return position - when contributing to a Canadian charity, disclosure must be made on Form 8833. Also, elections to defer the income within an RRSP or RRIF need to be completed on Form 8833.
7. Foreign Tax Credits - these are often misclassified and carryovers are left to expire. Proper planning can save taxes in future years. Under certain circumstances it may be better to take foreign taxes paid as a deduction rather than a credit. Only proper analysis results in the correct answer.
8. Incorrect reporting of OAS and CPP - as U.S. residents, those payments are taxed in the same way as U.S. Social Security on the Federal return. Adjustments are often necessary for the State returns. Canadian residents receiving U.S. Social Security are taxed differently than on their OAS and CPP. Proper reporting insures the 15% adjustment.
9. Incorrect reporting of RRSPs and RRIFs - if not deferred by a treaty election, the income within the RRSP and RRIF is fully taxable in the U.S. Again, some states do not recognize the treaty deferrals and tax the income regardless of treatment on the Federal return.

10. Not having an experienced cross border tax specialist prepare the return. If the client has foreign income, they need someone familiar with these issues. Penalties for improper reporting or failure to report run as high as \$10,000.

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