



Can A Canadian Be “Resident Nowhere”?

Arnold Sherman

Because my practice is limited to international tax planning, I receive more than my fair share of enquiries about tax planning possibilities, inspired by what I call the “man-in-the-pub syndrome”. The caller met a man in a pub, who told him about a wonderful way of reducing or eliminating Canadian tax. He or she wants me to help to do the same. I have to tell the caller that the “plan” would be considered to be tax evasion and that, if I helped, that would mean I was guilty of conspiring to evade tax – perhaps resulting in a jail term for both of us.

While that ends the matter, I sometimes wonder whether the caller will keep calling tax advisers until he finds one who will help him, I sincerely hope not!

I turn now to an example of the man-in-the-pub syndrome.

From time to time, Canadian residents plan to leave Canada permanently without becoming resident anywhere else. One example is purchasing a boat, that is registered outside Canada, living on the boat and sailing around without ever spending a significant amount of time in any port and perhaps never visiting a Canadian port. Another example is working full-time for a cruise company on their ships and never returning to Canada. They tell their Canadian friends what they have done: “I don’t pay tax anywhere!”.

Is this possible? In the view of the Canada Revenue Agency, the answer is a firm “No”. The CRA takes the view that a Canadian resident who ceases to be resident here, but does not take up residence in another country, remains a Canadian resident for tax purposes and therefore continues to be subject to tax on world-wide income.

To contest the CRA’s view, the individual would have to file an appeal to the Tax Court of Canada against the

CRA’s tax assessment. The cost in terms of time and money may be considerable and the chance of success is slim. The Court, in considering the question of Canadian residence, tends to require an answer to the question: “You say you are no longer a resident of Canada. So, where are you resident?”. The answer “nowhere” (or on a ship) is unlikely to be helpful to the claimant.

I was recently approached by a Canadian (suffering from the man-in-the-pub syndrome) who had started to work on non-Canadian ships two years earlier, has never returned to Canada since then, and now (with my help) wants to be declared a non-resident of Canada for tax purposes, just like his colleagues, or perhaps just like the man he met in a pub. I refused to accept him as a client because, in my view, he would be wasting his money and my time by making such a claim.

When explaining this problem of “residence nowhere”, I sometimes use the hypothetical example of a Canadian-born individual, who never left Canada until after graduating from a Canadian University. She then accepted employment with a multinational hotel chain as a travelling auditor. She spent the next 40 years travelling all over the world auditing the hotels. She never spent more than a couple of months in any one country in any year. She returned to Canada at age 65 to retire here.

Because she never became resident anywhere else, the CRA would assess her on the basis that she had been tax resident in Canada for the entire 40 years. She would be liable to Canadian tax, interest and penalties on her world-wide income for the entire 40 years. Because she did not realize that she was liable to Canadian tax, she had never filed a Canadian T1 tax return. Consequently, there would be no time limit on the assessment, so the CRA could theoretically assess for the entire 40 years. The total tax, interest and penalties could exceed her gross income for the period.

As an aside, the question of whether her “free” hotel accommodation for 40 years would be added to her income would have to be addressed. It would require a determination of where her “home” was during that period – a difficult conundrum indeed! Happily, as already noted, this is a hypothetical example.

Assuming she decided, in the circumstances, to retire outside Canada, could the CRA still collect back taxes

from her? An interesting question, which will be the subject of another article in *Canadian MoneySaver*.

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