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WEALTH MANAGEMENT

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# Shopping Smart

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## Important Travel Considerations

After a long cold snow-bound winter it becomes very tempting to plan to spend a lot of time next winter in places to the south that are warm and sunny. There are lots of things to consider when shopping for the right vacation getaway. One that might not garner a lot of thought is limiting the amount of time you are away.

Beginning June 30th Canadians travelling abroad, including to the USA, will need to swipe their passports both when leaving and returning to the country. This means the Canadian government will be able to accurately track the number of days per year you spend out of the country and the U.S. government will be able to accurately track the number of days you spend in the USA. This will, among other things, facilitate both governments ensuring that people live up to their residency obligations. Travellers must be careful to abide by the rules of both countries as there are significant consequences of violating the rules.

A Canadian resident who spends too much time in the USA risks becoming a deemed U.S. resident liable to U.S. taxation on their worldwide income. Someone in that position who dies while a deemed resident of the USA could also become liable for U.S. estate taxes on their worldwide assets.

The IRS has a Substantial Presence Test that is used to determine if someone is a U.S. resident for tax purposes. It considers someone a U.S. resident if they have been in the USA for all or part of 31 days in the current year and a weighted average of all or part of 183 days in the current year and the two preceding years. The calculation counts all full or partial days you are present in the USA in the current year plus 1/3rd of those in the preceding year and 1/6th of those in the year before that. For example, if you spend 120 days per year each year in the USA, your Substantial Presence Test calculation would be 120 + 1/3rd of 120 (40) + 1/6th of 120 (20) for a total of 180 days. Spending even 10 more days in the USA in any of those years would put you over the limit and render you a U.S. resident for U.S. tax filing purposes. Days that you are unable to leave the USA because of a medical condition that develops while you are in the USA are excluded from the calculation.

Note that in this example, because you were out of Canada for less than 183 days, you are also a Canadian resident for Canadian tax filing purposes. If the Substantial Presence Tests renders you a deemed resident of the USA, the U.S. tax filing requirement can be avoided if you were present in the

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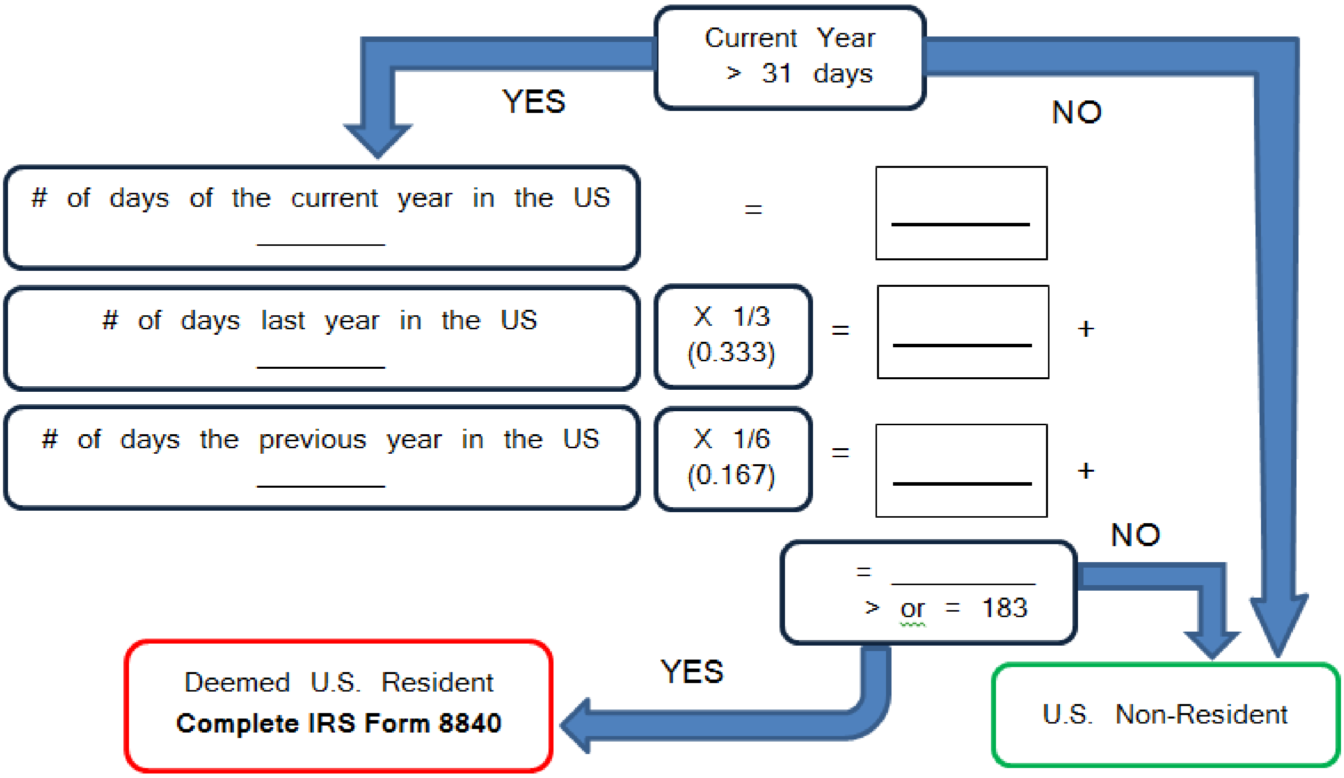
USA for less than 183 days in the current year and you complete and file IRS form 8840 (www.irs.gov/pub/irs-pdf/f8840.pdf) by June 15th of the following year. Failure to file this form when eligible to do so would necessitate filing a U.S. tax return. If you have spent more than 183 days in the U.S. in one year it may still be possible to escape being treated as a resident of the USA by filing the more rigorous form 8833 for which professional assistance may be required.

If you spend a relatively uniform amount of vacation time in the USA each year and keep your visit to less than 120 days each year, you will avoid having to file any paperwork with the U.S. government. Otherwise, you will likely need to file IRS form 8840. You can use the chart below to make the calculation that addresses your specific situation.




A Canadian who loses their residence status is deemed to have disposed of all their assets at fair market value and becomes liable for income tax on any related capital gains. This could occur if you do not have significant residential ties with Canada and you stayed in Canada for less than 183 days in the tax year.

Another consideration when vacationing away from home is that Canadians can lose their provincial healthcare program coverage eligibility if they spend too much of the year outside of their home province. For example, vacationing Ontario residents can lose their coverage if they are out of the province for more than 212 days in any 12-month period (half the year or more for Quebec residents). This calculation includes time spent out of the country as well as time spent in other provinces.

If you have any questions or wish to discuss any of these matters, give us a call or e-mail us at Graham.Tench@nbc.ca or Denis.L'Heureux@nbc.ca.