

Your U.S. retirement plan

Bringing it home



If you are a Canadian resident who has lived and worked in the U.S., you may have contributed to and accumulated funds in a U.S.-based retirement plan. The most common are the traditional Individual Retirement Account (IRA) or a 401(k) plan.

A traditional IRA is a retirement savings vehicle which allows the individual to make contributions up to an annual limit. Depending on the individual's circumstances, contributions may be fully or partially deductible and investments are generally allowed to grow tax-free until distributed. You generally cannot make regular contributions to a traditional IRA starting in the year you reach 70½ years of age. A 401(k) plan is a qualified retirement plan that includes an "elective deferral" feature, which allows employees to elect to have their employers contribute a portion of their employment income to the plan. Generally, the employment income contributed to the plan is not subject to federal income tax at the time the amount is contributed.

Canadians that have a U.S. retirement plan can leave it in the U.S. to continue to grow on a tax-deferred basis until it is withdrawn. Depending on the type of plan, there may be filing requirements at tax time.

Canadians that have a U.S. retirement plan can leave it in the U.S. to continue to grow on a tax-deferred basis until it is withdrawn.

If you have returned to Canada, you may have questions about your IRA or 401(k) plan. Can those savings be moved back to Canada? Can you contribute these savings to a Registered Retirement Savings Plan (RRSP)? What are the tax implications? What if you simply leave the savings in the U.S.?

Under certain conditions, you can transfer the funds in your U.S. retirement plan to an RRSP. The funds will be subject to U.S. withholding tax, and the amount transferred to an RRSP should not impact your remaining contribution room.

Bringing the funds to Canada: tax implications on both sides of the border

Should you decide to transfer your traditional IRA or 401(k) plan to an RRSP, the U.S. retirement plan would be collapsed to create a lump sum for withdrawal. The lump sum withdrawal could then be contributed and designated as a transfer to your RRSP. Only lump sum amounts — rather than periodic payments — may be designated as a transfer to an RRSP, and transfers are only permitted to your own personal RRSP, not a spousal RRSP.

U.S. withholding tax will be applied to the lump sum withdrawal from your U.S. retirement plan. The U.S. Internal Revenue Service (IRS) requires U.S. financial institutions to withhold 30% on withdrawals from U.S. retirement plan unless a tax treaty with the withdrawer's country of residence specifies a different rate.

Under the *Canada-United States Income Tax Convention* (the *Treaty*) the withholding tax is typically lowered to a 15% withholding rate for periodic pension payments. It

is unclear if the lower 15% rate would apply to lump sum withdrawals. Before you make a withdrawal, be sure to check with your tax specialist and U.S. financial institution or U.S. plan administrator to determine which withholding rate would be applied.

Moving the funds from your U.S. plan to a Canadian RRSP must be done:

- In the year the funds are withdrawn from your traditional IRA or 401(k) plan, or within the first 60 days of the following year; and
- Before the end of the year that you turn age 70½.

It is important to note that if you make a lump sum withdrawal before age 59½, a 10% additional early distribution tax would apply under the U.S. tax rules in addition to the U.S. withholding tax imposed.

For Canadian tax purposes, the lump sum withdrawal from a traditional IRA or 401(k) plan would result in an income inclusion in the year of withdrawal. However, if the lump sum amount is fully contributed to an RRSP and designated as a transfer in the same year (or within 60 days after the end of the year), a deduction would offset the aforementioned income inclusion.

In addition, U.S. withholding taxes (and any additional early distribution tax) paid on the lump sum withdrawal may be claimed as a foreign tax credit on your Canadian income tax return. In general, a foreign tax credit may be claimed up to Canadian taxes payable on foreign sourced income. As a result, an individual may not be able to claim or fully utilize a foreign tax credit, however U.S. withholding taxes paid that may not be claimed as a foreign tax credit may be deducted against income.

For example, if you withdraw \$100,000 from your U.S. retirement plan you will receive an amount of \$70,000 and pay \$30,000 in U.S. withholding tax (30%). However, you may contribute up to \$100,000 and designate it as a transfer to your RRSP. The \$30,000 U.S. withholding tax may be claimed as a foreign tax credit or deduction for foreign taxes paid on your Canadian income tax return.

Are you planning to move back to Canada and hold savings in a U.S. retirement plan? Consult with a tax specialist to ensure you are aware of all the tax implications.

Keeping the funds in the U.S.: required minimum distributions

In general, Canadian residents may keep their savings in a traditional IRA or 401(k) plan in the U.S. and savings may continue to grow on a tax-deferred basis for Canadian and U.S. tax purposes. Depending on the type of U.S. retirement plan, there may be filing requirements at tax time to ensure the deferral continues.

An owner of a traditional IRA must generally start receiving *required minimum distributions* (RMDs) by April 1st of the year following the year in which the owner reaches age 70½. RMDs must be made annually by December 31st in subsequent years. RMDs are calculated by dividing the account balance on December 31st of the preceding year by the applicable distribution period or life expectancy from either the Uniform Lifetime table or the Joint Life and Last Survivor Expectancy table published by the IRS. The Joint Life and Last Survivor Expectancy table is used by plan holders whose only beneficiary is a spouse who is more than 10 years younger.

Once you've determined the right table for you, RMD calculations for a given year are based on the age of the plan holder on December 31st of the applicable year, the plan account balance on December 31st of the year preceding the applicable year, and on the applicable distribution period from the relevant table.

If a distribution is not made when RMDs are required to begin or if the distributions are not sufficient to meet the RMD, you may be required to pay a 50% excise tax on the amount not distributed as required.

Distributions from a U.S. retirement plan would be subject to U.S. withholding and are included in income for Canadian tax purposes. The *Treaty* provides a 15% withholding tax rate for periodic pension payments, which would generally apply to RMDs from your U.S. retirement plan if you are a resident of Canada. U.S. withholding taxes paid may be claimed as a foreign tax credit to reduce Canadian taxes payable.

If you decide to keep your U.S. retirement plan in the U.S., consider whether this may impact your U.S. federal estate tax exposure as it would be considered a U.S. situs asset for purposes of the U.S. estate tax. For a broader discussion on the U.S. estate tax, please see the TD Wealth article titled "U.S. Federal Estate Tax Implications for High Net Worth Canadians: Determining if You Have Any Liability".

If you worked in the U.S. and left your U.S. retirement plan there, you will eventually be required to make withdrawals. Speak with your tax specialist about the timing of withdrawals and the income and estate tax implications.

Returning to the U.S.?

If you are leaving the door open to returning to the U.S., you might consider waiting before moving U.S. retirement plan funds to an RRSP. Transferring funds from your RRSP to an IRA or 401(k) plan could trigger tax in both Canada and the U.S.

Have you moved back to Canada, yet remain unsure whether you will stay? Talk to your TD advisor and a tax specialist about options for your U.S. retirement account and the tax implications.

Considerations

- Review the possibility of transferring your U.S. retirement plan funds into a Canadian RRSP
- Talk to your tax specialist about the income and estate tax implications of leaving the funds in the U.S.
- Decide what to do with your U.S. plan based on where you plan to take up residence during retirement



This article provides a general overview of some of the U.S. and Canadian tax considerations for Canadian residents around certain types of U.S. retirement accounts. It does not address additional considerations applicable to persons who are U.S. citizens, green card holders or individuals who are otherwise treated as residents of the United States for U.S. tax purposes. The U.S. and Canadian tax rules are complex, and tax consequences can vary depending on your individual circumstances. Be sure to speak with your tax specialist before taking any action with respect to any retirement accounts.

The information contained herein has been provided by TD Wealth and is for information purposes only. The information has been drawn from sources believed to be reliable. The information does not provide financial, legal, tax or investment advice. Particular investment, tax, or trading strategies should be evaluated relative to each individual's objectives and risk tolerance. TD Wealth represents the products and services offered by TD Waterhouse Canada Inc., TD Waterhouse Private Investment Counsel Inc., TD Wealth Private Banking (offered by The Toronto-Dominion Bank) and TD Wealth Private Trust (offered by The Canada Trust Company). All trademarks are the property of their respective owners. ® The TD logo and other trade-marks are the property of The Toronto-Dominion Bank.