Tax and Accounting Secrets
Presented To Member of the Real Estate investment Network Sept 2008

Tax and Accounting Secrets

Buying up the USA

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Introduction

- No perfect or universal tax plan
- Dealing with US and Canadian rules
- Ignorance of rules can be devastating

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Background Information

Canada's major tax initiatives
re: foreign taxes

- Fifth Protocol – Tax Treaty
- Foreign property reporting
- Foreign affiliate rules
- FIE rules

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Who do you pay taxes to?

You're the grand prize WINNER!!!!!
– Both the US and Canada

Canada – worldwide income

US – "nonresident alien" limits taxes to US situs property, gift tax and estate tax

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Summary of US Rules

This applies to you – and no, you're not eligible for the exceptions (yet)

- Tenants required to pay 30% withholding on GROSS (mercy from IRS?)
- Nonresident Alien Income Tax Return

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Summary of US Rules (con't)

Capital gains on sale of property – federal and state taxes plus potentially withholding of 10%

Filing requirements

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Example Capital Gain

- Acquire property for $100,000
- Sale for $150,000
- Capital Gain = $50,000

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Example Capital Gain

- Currency exchange at time of purchase and sale
- $100k US purchase at roughly $.70 Cdn,
- Sale at roughly $.95 Cdn
- US gain on $50k
- Cdn gain on roughly $15k

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US Surprises

- “Death tax” vs. “Estate tax” vs. politics
- Married vs. common law vs. same sex
- Gift tax
- Generation-skipping transfer tax
- The big Ooooops
- Mix with Canadian “attribution” rules (like gas and fire)

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Estate Tax

Rates vary for 2008/09 vs. 2010 vs. 2011
maximums of 45% vs. 0 vs. 55%

- ***2010 is a good year to die?***

1. “Proportional Unified Credit” – complex calculation – final answer…
2. “Marital credit” X 2
3. Non-recourse debt

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Alternative Ownership Ideas

Corporate ownership

- Corporations don’t die
- Quite common prior to 2005 – “single purpose corporation” rejected by CRA (if personal use)
- Higher tax rates on income and dispositions

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Alternative Ownership (con’t)

Joint tenancy – 100% of property to survivor

- Proof of **EXACT** origin of funds to acquire (on death 100% x 2 or if on sale potential gift tax)
- May be better to have one spouse (ideally first to die/lowest estate value) – will to spousal trust

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Alternative Ownership (con't)

Tenants in common – undivided interest

- Where proof of contribution exists not so bad
- US probate fee planning available

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Alternative Ownership (con't)

Canadian discretionary trust – possible, but significant issues involved

Canadian partnership

- Potentially avoids estate taxes
- "check-the-box" election in US
- Look through risk

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Final Answer

It depends.

Also consider…flexibility…legal…financing…business/organizational issues

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Conclusion

This presentation contains general comments and should NOT be acted upon without the advice of a qualified tax professional. While there may be similarities, every situation is different.

Thank-you…

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