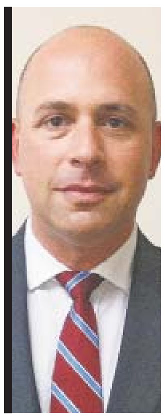
Limiting estate tax exposure in U.S.



MERRICK WEALTH

By Peter Merrick

Many Canadians cannot overlook the allure of a Florida, Arizona or California winter, even with our weak dollar. Indeed, Canadians are still purchasing properties in the United States, and in many cases real estate there is much more affordable than here. Those who are unable to afford a second house in cities like Toronto or Vancouver may well look to purchase south of the border, even with the current exchange rate.

People are generally aware of U.S. income tax consequences if they wind up renting or selling the property they buy. However, many do not know they may be exposed to U.S. estate tax and it is this fact that prompted me to approach Veronika Chang, a tax lawyer with Morris Kepes Winters LLP in Toronto.

She is a tax specialist with extensive experience working in the United States, especially in the areas of the U.S.-Canada Income Tax Convention and the Internal Revenue Code for clients who own property in the United States and how they should plan.

Let's have a look at the rules. "American citizens and residents are subject to U.S. estate tax on their worldwide assets," she said. "This estate tax applies only to those people whose worldwide gross assets exceed the U.S. estate tax exemption. The current exemption amount is US$5.45 million."

She explained that Canadian residents who are not U.S. citizens may also be subject to this estate tax if they own U.S. situs property. This means property in the United States, which includes real estate.

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She explained that Canadian residents who are not U.S. citizens may also be subject to this estate tax if they own U.S. situs property. This means property in the United States, which includes real estate. Canadians are subject to U.S. estate tax on the value of their U.S. situs property and the $5.45 million exemption is not available to them.

Generally, a U.S. estate tax return for a non-resident (Form 706-NA) must be filed if the deceased non-resident owned U.S. situs assets with value greater than US$60,000. But if the Canadian resident's U.S. situs assets exceed this amount and a U.S. estate tax return must be filed, it does not necessarily mean you will owe U.S. estate tax since Canadians may find tax relief under the convention.

Generally, no U.S. estate tax is owed if the total value of a Canadian's worldwide estate is below the exemption amount — US$5.45 million. "But even with no estate tax owing, to claim the benefits under the treaty you still have to file an estate tax return if your U.S. situs assets are over US$60,000," Chang explained.

I learned from our conversation about various ways to own real estate in the U.S. and the simplest is to own it personally. If the value of your worldwide estate is less than the current estate-tax exemption amount, it is unlikely you will have to pay U.S. estate tax, so owning the U.S. property may be a simple option for you. There is a common perception that the U.S. is a litigious society and people need a corporation to protect themselves from potential lawsuits. A corporation or other entity is not necessary if your goal is to limit your liability against a slip and fall, as most homeowner's insurance will provide coverage for that, and property insurance will cover most damages.

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A favourite method of many Florida tax advisers whom Chang has seen is to have a revocable living trust own the house in order to avoid probate and save on the probate fees. A revocable living trust is a trust that you make during your lifetime, and it can change as your circumstances change.

She points out that although a revocable trust may save you dollars in probate fees, it does not help Canadians save on the U.S. estate tax. On the other hand, a trust structured properly can help avoid the probate and save U.S. estate tax.

Another option still is a Canadian limited partnership which can be used to hold U.S. real estate with a corporation to act as the general partner. In certain circumstances, a combination of a trust and limited partnership might be an effective solution. "Of course, these vehicles are subject to different restrictions and limitations, and depending on circumstances, there may be different advantages and disadvantages," says Chang.

Purchasing U.S. real estate through a trust or partnership, or a combination of both, may provide protection from U.S. estate tax. But you must always consider the cost of setting up and maintaining these vehicles. A good idea is to do a cost-benefit analysis of the cost in setting up and administering a trust or partnership, and then compare that to the eventual estate tax savings. If the estate tax saving is not significant, the effort may not be worth it. That is when the simplicity of owning personally may be the best option, even at the cost of paying some U.S. estate tax.

What if the lure of owning U.S. property is on your horizon? The most important lesson I took away from my conversation with Chang is that this is complicated stuff and is well worth the time and money to do it right. Sit down with a tax specialist who has extensive experience working in the United States in the areas of the tax convention and the Internal Revenue Code, and seek the right structure.

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Women see money 'as tool, not an end'

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given to women, she added. "There is something seriously wrong with this world."

Using a gender intelligence lens to attract and retain female clients does not require a major business overhaul and it does not mean alienating or ignoring male clients. "I don't advocate that you take everything and turn it upside down and inside out," said Thomas Yaccato.

What is required is a new way of looking at the needs of female clients and identifying how those needs can be met. Often all that is required is a small, but significant change. It's the butterfly effect for business. In chaos theory, the butterfly effect refers to the potential impact one insect flapping its wings in Mexico can ultimately have on a hurricane in Thailand. "The smallest changes can have absolutely enormous consequences," said Thomas Yaccato.

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Joanne Thomas Yaccato, financial planner

Accounting firms looking to become gender intelligent and more welcoming to women will need to change more than their forms and advertisements. Resonating with the 80 per cent minority requires a culture change that starts at the top and filters throughout the entire company, no matter how large or small. "This leads to seeing other opportunities out there," said Thomas Yaccato. "It broadens perspectives."

The starting point is understanding how women select their accountant. They turn to a friend, a professional they know, or a family member for a referral or recommendation. Build a network of colleagues who can serve as an important source of information, advised Thomas Yaccato.

"There is still a chasm between the financial services sector and women, but there are things [accountants] can do to make themselves a go-to place for women," she added.

First, speak in a language that is accessible. Put aside words that imply a male bias and jargon that excludes listeners from the conversation. Second, understand the world women live in. "Women entrepreneurs have a very different life than male entrepreneurs," noted Thomas Yaccato. "Women spend two and a half hours more every day on children and home over men. There are realities in running their business that they have to face that men don't."

Most importantly perhaps is to be confident the changes you are making have merit, and that requires hands-on market research. It doesn't have to be formal or expensive, but it has to reach the audience you want to draw in and retain as clients. You may be surprised by what you learn, said Thomas Yaccato. She points out, for example, that what motivates female entrepreneurs is not the same as what drives their male counterparts. "Women see money as a tool, not as an end in itself. For men, money is often an end goal in itself. There is a world of difference."

At present, however, said Thomas Yaccato, "the financial industry focuses on one dimension."