



Snow Bird Seminar

LOCATION-DATE-TIME

Agenda



2:30- Introduction



2:35- Presentation



3:28- Wrap-Up



3:30- Q&A

Purpose of Today's Seminar

- ▶ Provide information and direction for Canadian owners of Florida vacation properties
- ▶ Clarify nice-to-do and must-do actions for owner and ownership scenarios
- ▶ Highlight investment implications for owners of US property
- ▶ Meet some new people and broaden the Florida/home network

What Will You Lean?



The latest on US property
ownership



Tax residency- How many
US days are too many?



Selling US real estate

Many of you have the same questions and concerns....

- ▶ When do I file income tax in the US?
- ▶ How many days can I stay in the United States?
- ▶ How do they count the days? What is “a day”?
- ▶ If I come home or go on a cruise, do those days count?
- ▶ After I sell, how do I get the money home?
- ▶ Do I need a U.S lawyer, should I have a U.S Will?
- ▶ How do I avoid withholding of sale proceeds?
- ▶ Does it matter if it's a house, condo, or manufactured home?
- ▶ What happens if one of us passes away?
- ▶ Does it matter if I'm single?
- ▶ Should I sell no, or let my kids worry about it after I'm gone?
- ▶ Do I need to pay capital gains in Canada on US real estate?



Beware of Poolside Lawyers and Accountants.....

No lawyer that I hire will withhold proceeds from the sale of my property.

My brother-in-law has a lawyer who will make sure you never pay taxes

As long as it's under \$100,000 I don't have to pay tax on it when I sell

I've never told the Canadian government about my Florida home, so I won't have to pay capital gains tax on it

When we sold our first condo, we didn't have to do any of that

If you inherited the property from your parents you don't have to do anything

They can't find out how long you stayed if you drive across the border

Give it to your kids at the price you paid, then no one pays tax on it

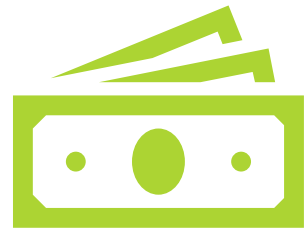
Register your kids on title and they can just take over ownership





The IRS and CRA have teams of people that continuously change the rules and like “cute” explanations about as much as a US border guard!

During this presentation we will address two broad topics..



Selling Your US Property


Tax of capital gains
Reduce withholding at time of sale



US Tax Filing Requirements

How to avoid filing a US tax return
When you must file a return

US imposes tax on the world wide income of citizens, green card holders, and residents.



Canadians become US tax residents if they meet the “substantial presence” test.

U.S. Tax Residency Rules

Substantial Presence Test

- ▶ Present in the US at least 31 days in the current tax year; and
- ▶ Present in the US 183 days during the 3-year period that includes the current year and 2 prior years, counting:
 - ▶ All of the days you were in the US during the current tax year;
 - ▶ 1/3 of the days you were in the US during the prior tax year
 - ▶ 1/6 of the days you were in the US during the second prior tax year.

** You are treated as present in the US on any day you are physically present in the country, at any time during the day– even for a minute.

Tax residency rules continued...

- ▶ Even if you satisfy the substantial presence test, you can still be treated as a non-resident in certain situations
 - ▶ Closer Connection Exception: If closer ties are in Canada, then you will be treated as non-resident of the US .
 - ▶ Only applies if you are present in the US for less than 183 days during the year.
 - ▶ Must maintain a home in Canada
 - ▶ Must file **Form 8840**
 - ▶ Treaty Exception
 - ▶ Similar test to the closer connection exception
 - ▶ Can be used if you are present in the US for more than 183 days during the year.

Tax Forms

If you do not satisfy the substantial presence test, only file a tax return to report U.S. source income.

Form 1040NR



If you satisfy the substantial presence test, but are present in the US less than 183 days during the year and qualify for the closer connection exception

Form 8840

Also file Form 1040NR if you have U.S source income. Form 8840 should be attached to the 1040NR

If Form 8840 is not timely filed, then you may need to rely on the treaty exception.

Tax forms...there's always more!

- ▶ Late filing of tax returns could result in significant penalties or denial of benefits/exceptions.
- ▶ If you are present in the U.S for more than 183 days during the year and you qualify for the treaty exemption or if you did not timely file Form 8840
 - ▶ Form 1040NR
 - ▶ Form 8833
 - ▶ Other information reporting (FBAR, Form 8891,etc.)

Method of Ownership Depends on Your Unique Circumstances



- ▶ Methods of ownership
 - ▶ Own personally
 - ▶ Joint Tenants/Tenants in Common
 - ▶ Irrevocable Trust
 - ▶ Limited Partnership
 - ▶ Corporation

Taxes an Ownership of U.S. Real Estate



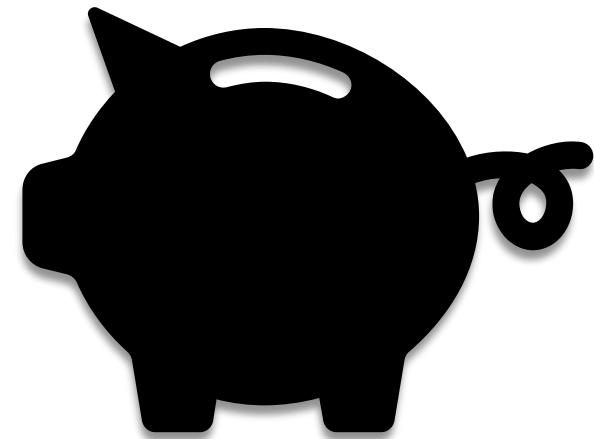
If you own personal-use property with no income, then you are not required to file US taxes until you sell your property.



If you US property is rented, then you must file a tax return to report the rental income, regardless of the amount or profit.

Rental Income

- ▶ Rental income is subject to 30% tax, plus any local government fees.
- ▶ An election is available to treat rental income as effectively connected with a trade or business.
 - ▶ The effect of the election is to allow deductions against rental income and to tax the net income at US graduated tax rates
 - ▶ Election must be made in a timely fashion (generally within 18 months of the original due date of the tax return)
- ▶ Report rental income on **Form 1040NR**

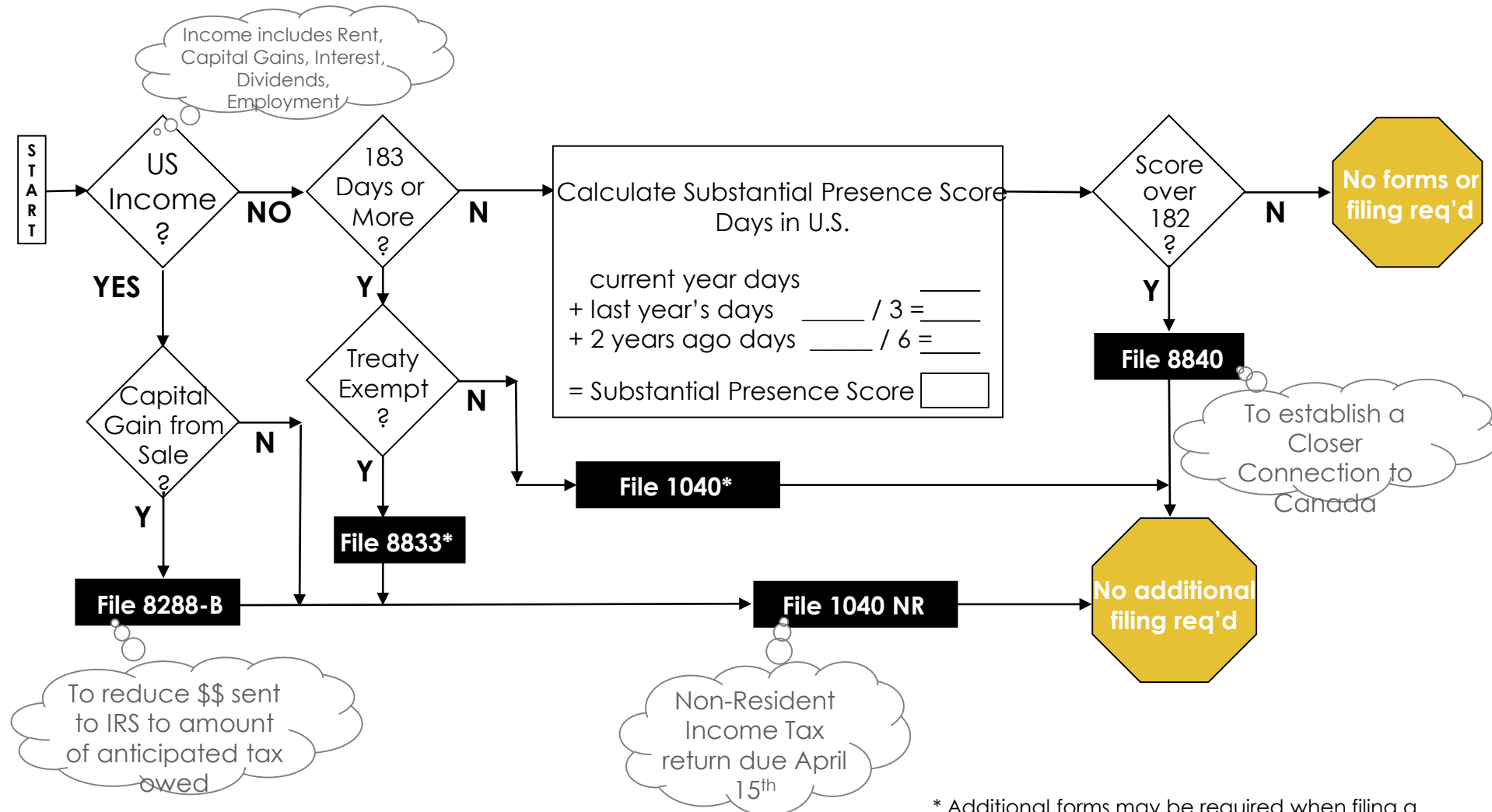


Sale of US Real Estate

- ▶ Proceeds of the sale are subject to 10% withholding when the seller is a Non-Resident of the US.
 - ▶ Can be reduced to the estimated actual tax liability
 - ▶ Must file **Form 8288-B** prior to sale
 - ▶ The 10% withholding tax will be held in escrow until the IRS issues the withholding certificate
 - ▶ If property is jointly held, then both spouses must file for a withholding certificate
- ▶ Gain must be reported on **Form 1040NR**
 - ▶ If held jointly, each spouse must file a tax return.

***The TIN and 8288-B will prevent you from waiting 18-24 months for your withheld funds.*

US Tax form Flowchart for Canadians



* Additional forms may be required when filing a 1040 (US resident tax return) or 8833



Tax Forms are Available
at : www.irs.gov

| Form # | What is it | When to use it |
|---------|-------------------------|---|
| 1040 NR | Non-Resident income tax | More than 182 days in US, or substantial presence has been calculated |
| 1040 NR | Non-Resident income tax | If you have US source income like rent, interest or capital gains on sale of real estate |
| 8840 | Closer Connection | To avoid US tax filing when you have a substantial presence, but MUST be less than 183 days in US |
| 8833 | Treaty Exemption | In US more than 183 days, to avoid paying US tax, but must file 1040 NR simultaneously |
| 8288-B | Withholding Certificate | To reduce withholding at sale of property from 10% to expected tax liability, even all the way to \$0 |
| W-7 | Tax ID No. | TIN is like a Canadian Social Insurance Number |

Wrap Up and Next Steps

- ▶ Incorporate information from today's seminar into your real estate ownership plan
 - ▶ Are you complying with US tax law?
 - ▶ If not, what are the short and long term implications ?
 - ▶ Do I understand the requirements if we sell or transfer ownership?
 - ▶ Are there steps that should be undertaken today to prepare for an eventual sale?
- ▶ Conduct a comprehensive review of your entire investment portfolio that also includes US real estate holdings.



Questions?