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TAX

The tax implications of employees working remotely abroad

Before granting an employee's request to telework from another country, employers need to ensure the organization is meeting all its obligations.

Despite the widespread closure of borders, there are more digital nomads than ever – **35 million** worldwide. And, with the introduction of vaccination passports and increasing remote work opportunities, a growing number of employees are attracted by the **prospect of teleworking** from abroad.

But, before employees relocate, employers have several legal and tax liabilities to keep in mind. "The risks of non-compliance are real for the employer," says CPA **Annie Poitras**, lead senior manager, taxation, at Raymond Chabot Grant Thornton in Quebec City. "Failure to meet tax obligations can result in problematic situations. It's best to plan ahead and take the necessary steps."

Ask the right questions

In advance of granting an employee's request to telework from abroad, an employer **needs to understand** what the employee's residency status will be in the new country and the subsequent tax commitments. Read more from Bruce Ball, CPA Canada's vice-president of taxation, on the **implications of remote work on taxes**.

"It is important to understand that every situation is different – from one country to another," says Poitras. "There is no single solution." Remember, although employees can be upfront about where they are moving to, the employer will need to make sure they are compliant with the rules in the foreign country. Aside from seeking professional advice, Poitras advises organizations start the process by asking the following questions:

- Will the business have to meet any new tax obligations?
- Is there a social security agreement between the two countries?
- What will the employee be doing there and for how long? "Unless they have dual citizenship, the duration of their stay is often limited," says Poitras.

- Should a maximum number of weeks be set for their stay?
- Will they be working from home alone or will they be active locally? For example, providing in-person technical support to clients.
- Will they become a tax resident of the host country?" If so, the individual may still remain a resident of Canada, but be subject to foreign tax. For more about how residency status is impacted when moving abroad, see article "**The tax consequences of leaving Canada permanently**" in the Business Matters Newsletter August issue.

These answers should help an employer determine if there's a risk of causing a permanent establishment and, therefore taxable presence, in another country. Other things to consider are the types of activities being conducted by the employee and the profit attributable to that activity, **explains Moss Adams**, one of the largest public accounting firms in the United States.

Also, take into consideration the level of authority exercised by the employee on behalf of the organization, like the ability to enter into contracts. According to Moss Adams, the goal is to understand "the specifics of when a taxable presence is triggered in the country where the employee is working," because the employer could be subject to income tax or filing a return even if no taxes are levied.

Understand the tax implications

Although some countries emphasize an exemption from local income tax when working from abroad, this does not necessarily mean that the individual will not be subject to Canadian tax as some individuals may remain a resident of Canada if, for example, their families still live here. Also, it doesn't mean that employees will be exempt from taxes when they return to Canada, says Jean Gabriel Crevier, co-founder of the accounting firm Le Chiffre in Montreal.

This is important information because a resident of Canada must report the world income "from all sources both inside and outside Canada earned after becoming a resident of Canada …," explains the **Canadian Revenue Agency** (CRA).

Here are other factors employers need to consider.

Employer taxes

"The first thing an employee should mention to their employer is their intended new country of residence," says Poitras. "What matters is not the currency in which the employee is paid, but the employer's tax obligations to the host country."

An employer should also contact the country's tax officials to find out if it is exempt from paying local taxes, as interest and penalties can be high in case of defaults.

"It would be wrong to think that if an employee is not taxable locally, his employer will not be either, because other rules govern corporate taxation," she says. "Only the host country can grant a waiver based on the tax obligations in effect."

Finally, if a country does not charge income tax, this does not mean that no income tax is required to be paid in Canada. Although residents live temporarily outside of Canada, they will have their income taxed like they still are in the country if they keep significant **residential ties** in Canada.

Bilateral tax treaties

Moreover, Canada has **bilateral tax treaties** with about a hundred countries and "even though **the OECD** developed a model tax convention, there is no universal approach," explains Poitras.

"For example, the U.S. treaty allows non-resident employees to request a waiver of withholding tax, provided that their employment income is less than $10,000 per calendar year or they have spent fewer than 183 days in the U.S. in any 12-month period, and they are not employed by a U.S. company or an employer with a permanent establishment in the U.S," she says.

But, again, emphasizes Poitras, an employer needs to be careful because not all states comply with the federal tax treaty, even within the same country. "For example, Florida does, but California does not," she says. "That's why an employer should know where its employees are (working) at all times, because they rarely think about the tax implications for their employer."

Foreign tax credit

If you let your employees work abroad, make also sure to have a conversation with them about potential non-resident taxes they may have to pay on their salaries locally.

"When employees file their income tax return in Canada, they could claim a credit," says Poitras. However, the CRA does not consider social security contributions in all countries **as eligible for the foreign tax credit** because, in some countries (such as France), they can be very high relative to income taxes.

"In these cases, a taxpayer could end up with an extra bill, especially if their employer has not made any payroll deductions and contributions, such as CPP contributions and Employment Insurance premiums" adds Poitras.

Do due diligence

From the type of work to the relevant tax treaty, employers need to do extensive research before allowing employees to work from abroad, says Poitras.

"As you might expect, compliance isn't simple or cheap," she explains. "If there is only one employee involved, the costs of tax compliance, like setting up a payroll system in the host country (opening bank accounts for transfers, setting up source deductions, filing necessary forms, etc.) can be really high. And, while the laws may be similar between neighbouring European countries, this is much less the case between Europe and America or Asia, making it necessary to redo the work each time."

Crevier agrees, adding that Le Chiffre currently has two employees working remotely from Mexico and Haiti, albeit temporarily. "If we were to have employees permanently abroad, we would consult an expert **to reassess the risks**," he says.

Find out more

This article includes a general summary of detailed tax rules. Need specific tax advice? Hire a Chartered Professional Accountant (CPA) and get the best working for you.

Also, learn how LiveCA became the **first virtual accounting firm in Canada** and read how the employees **work as a team** when all are digital nomads. Plus, find out how CPAs, **who are in more demand than ever**, have adapted during the pandemic and **benefited from the experience**.

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TAX

3 Types of real-estate fraud to look out for

For many Canadians, property ownership is a lifelong dream. Sadly, real-estate scams are commonplace, and it could get worse with the COVID-19 pandemic.

Even with a range of financial support measures being offered to Canadians as a result of the COVID-19 pandemic, many property owners will find it difficult to make their mortgage payments in the months to come due to a lack of work and income. The Canadian Bankers Association (CBA) reported that member banks **have already processed more than 710,000** mortgage deferrals or skipped payments.

Sylvain Paquette, president of the **Canadian Credit Bureau**, which specializes in consumer protection against fraud and credit misuse, warns that fraudsters are aware of this precarious situation and highlights a few types of real-estate fraud to watch out for.

1) Foreclosure fraud

Most banks are allowing the deferral or skipping of mortgage payments for up to six months, says Paquette. However, during this period, the accrued interest will be added to the principal amount owing, thereby **increasing the total cost of borrowing**. “When this period ends, some people may still be out of work, while others will have accumulated debt. Fraudsters will jump at the chance to offer them non-traditional financing,” he says.

The goal is to get the victim to sign a first, second or even third mortgage, or a builders’ legal hypothec (that ensures the owner of the property cannot sell without payment of debts to builders and renovators) or lien, thereby allowing the fraudster’s name to appear on the title. After that, all the fraudster needs to do to foreclose on the mortgage is to instigate a loan default, on the pretense that the victim failed to comply with some vague clause. “If the victim is unable to pay, they will have no choice but to sell the property in order to repay the lender,” says Paquette.

According to the **Financial Consumer Agency of Canada**, “Foreclosure fraud usually happens when you are having problems making your mortgage payments. You may be tricked into transferring your property title to somebody to get a loan that will help you make your payments.

“Fraudsters usually keep the payments you make and also possess the title to your home, which they can resell or remortgage,” the agency says.

“All homeowners, be they in urban or rural areas, can fall prey to this type of fraud,” cautions Paquette. “However, commercial buildings that have appreciated in value over time are the most lucrative. Victims often don’t realize they’ve been scammed, so they don’t file complaints. They think this is the normal procedure for repossessions, are ashamed and just hand over the keys.”

How can we protect ourselves? “Never accept offers from debt consolidation or financial reorganization companies on social media,” advises Paquette. “And don’t call the numbers on *we buy houses for cash* signs, which are strategically placed to attract specific property owners. Your best option is to consult an independent professional you choose yourself."

2) Title fraud

To steal a title to property, a fraudster must commit identity theft first. Victims are often mortgage-free or don't have much left to pay off on their property.

To assume the owner's identity, the fraudster may use data that has been stolen from an organization or get the information directly from the victim. Mail or email interception, phone scams and phishing attacks are just some of the methods these con artists use, and the current pandemic is stoking their greed and creativity.

One strategy is likely to become even more prevalent, given that more than **one million Canadians lost their jobs** in March. "Fraudsters use phoney job offers to freely gather loads of personal information directly from candidates," explains Paquette.

Once they have the data they need, fraudsters make fake identification with their own pictures and forge documents, such as titles to property, says Paquette. "Notaries don't necessarily ask for originals, so the scammers, claiming to be the owners, remortgage the property. If the property is mortgage-free, they can walk away with up to 80 per cent of its value."

"If they're really greedy, they may go as far as **selling the property**, but this is more complicated," says Paquette. "Potential buyers have to visit the house, so it needs to be empty. Snowbirds are away several months a year, making them the perfect target. Selling property involves more people, so the risk of error is greater, but nothing is impossible."

While the risk is often minimal in title fraud, according to Paquette, the reward can be substantial with a single transaction bringing in hundreds of thousands of dollars. Scammers can also apply for a credit card in your name, on a home equity line of credit for example, and give another delivery address and telephone number. "You'll only find out about it when the collection agency calls and then you'll have to prove you knew nothing about it," he adds.

3) Mortgage fraud

This type of fraud generally occurs between the bank and the notary, by way of the broker. The owners may not notice anything, until it becomes difficult for them to pay their mortgage and they realize the home they purchased was, in fact, not within their means. "Just like some buyers may be tempted to lie on their mortgage applications, brokers sometimes **forge documents** to get loans approved," notes Paquette.

In one case, an income of $57,000 became $75,000 with the simple rearrangement of two numbers. In another, **a bank employee** altered details such as credit scores on more than 110 mortgage applications totalling $46 million. In 2015, Home Capital Group Inc., one of Canada's largest alternative mortgage lenders, **cut ties with 45 mortgage brokers** – who had supplied it with $960 million worth of mortgage applications – after receiving an anonymous tip that they were forging employment letters and income statements.

"What's more, when they become aware of the fraud, many institutions don't report it to protect their image," says Paquette. "They just demand that the perpetrator resign, so he or she is free to go and work elsewhere or move to another area. If the clients were to learn about the fraud, they could sue the bank, claiming that their application should never have been approved."

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Staying vigilant

"Protecting your personal information any way you can is crucial," says Paquette. If you suspect fraud, the **Canada Mortgage and Housing Corporation** urges you to report it to your local police department and contact the **Canadian Anti-Fraud Centre**. The CBA also recommends the following:

- Unless you have initiated contact or know whom you're dealing with, don't share your personal information on the phone, through email or text.
- If it sounds too good to be true, it probably is. Before you give out any personal information, find out how it will be used and if it will be shared.
- Make note of your billing cycles and follow up with creditors if payment notices don't arrive on time.
- Protect your mail by removing any mailbox items soon after delivery. If you move or change your mailing address, ensure you have your mail forwarded.
- Safeguard items with personal information. Identity thieves will go through garbage and recycling bins, so tear or shred receipts, copies of credit applications, insurance forms, physician statements and credit offers received in the mail.
- Keeping tabs on your credit report can reveal if someone has opened unauthorized financial accounts in your name. Review your report by requesting free copies from **Equifax Canada** and **TransUnion Canada** – the two credit reporting agencies in Canada.
- To check the title of your home is in your name, conduct a property search at your province land registry.
- Consider **purchasing title insurance**, which covers legal fees and other expenses associated with fraud claims. Some provinces compensate consumers for financial losses resulting from certain types of real estate fraud, such as Ontario with the **Land Titles Assurance Fund**.

Fraud alert

According to **CPA Canada's 2020 Fraud Survey**, nearly 450,000 Canadians fell victim to fraud in 2019. With the ongoing COVID-19 pandemic, fraudsters are getting creative.

To stay safe, find practical tips on spotting fraud in **Protecting you and your money: A guide to avoiding identity theft and fraud**. Also stay vigilant about SIN scammers and highly sophisticated ransomware purveyors.

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WEALTH MANAGEMENT

What to consider before lending money to loved ones

Loaning money to a friend or child may be well-intentioned, but it's important to consider all the implications, especially in the current context, experts suggest.

The COVID-19 pandemic has wreaked havoc on many Canadians' finances. By April, 2020 the economy had lost **more than three million jobs** and the unemployment rate rose to 13 per cent. During stressful financial times like this, it's inevitable people will turn to loved ones for monetary help. How do you respond to such a request? We asked the experts.

Rule 1: Put yourself first, especially now

According to Doretta Thompson, CPA Canada's financial literacy leader, the first question you should ask yourself is whether you can afford to lend the money.

"Everyone wants to help their friends and family, but this crisis is hard on us all and that may be a good reason for you to turn them down," she says. "Who knows what tomorrow will bring? Extending a loan shouldn't make it difficult for you to make ends meet. Your loved one should start by looking into the many government programs available, including those for small business owners."

Your primary concern, Thompson says, should be to maintain the cash you need and plan for the worst. "Loans are always risky," she says. "If a loved one comes to you, you're probably their last resort, which may mean the risk is even greater."

CPA Pierre Leblanc, president of bankruptcy trustee firm Groupe Leblanc Syndic, agrees: "Of course you want to help your child, but you shouldn't sacrifice your retirement plans, for example, to do so. You should be realistic about their ability to pay you back."

Rule 2: Be prepared to never see your money again

If you can lend money, accept that the loan may become a gift.

"Whatever the amount, make sure you don't need it in the short- or medium-term … or ever again," says Leblanc. "The borrower may be trustworthy, but they could get sick, go through a divorce or lose their job. From one day to the next, they may no longer be able to pay you back."

For your psychological well-being, proceed with caution. "A loan can always be secured, by real estate, for example. But how far are you willing to go to collect? Your goal should be to protect the relationship, even if you never see your money again," he adds.

In other words, says Thompson, you have to determine whether you're ready to jeopardize the relationship if the money disappears.

"A parent who lends a child money also needs to consider other family members, like brothers and sisters," says Leblanc. "For everyone's sake, the loan shouldn't be viewed as a debt if the lender dies, but as an advance on the borrower's inheritance."

Rule 3: Ask why

Questioning someone you care about and trust to tell you why they need money is awkward but necessary, says Leblanc.

"You have a right to know what you're getting into," he says. "You have to consider the risks in order to make an informed decision."

Thompson agrees. "Close to 40 per cent of Canadians live paycheque to paycheque. They tend to confuse the lifestyle they can afford with the one they would like to have," she says. "In the current economic conditions, their first step should be to minimize their financial obligations."

By asking questions, you can understand their circumstances better and may be able to help in other ways, such as buying groceries, housing or babysitting, says Thompson.

"Transparency may not be the norm when it comes to money, but now's the time to be honest about your situation and the assistance you can offer," she adds. "This crisis is unprecedented and may lead people to make different decisions than they normally would."

Rule 4: Set the terms

Under such circumstances, establishing terms for the loan, an IOU of sorts, is essential. Specify the total amount, set a due date or a repayment schedule, and determine whether you'll be charging interest, even if the rate is nominal.

"Money may still be a taboo topic, but you shouldn't be shy about asking for information, in the same way a bank would," says Leblanc. "What's their current debt level? Do they have a credit report? Can they give you an idea of their actual budget?"

"This is a tough conversation for anyone to have," acknowledges Thompson. "But you can always say that times are tough for everyone and that you don't have enough cash." If you're honest, your loved one will better understand where you're coming from and the help you can provide is limited.

"You can also secure a loan by registering an asset as collateral, such as a home or a debt-free vehicle," says Leblanc. "Or the borrower can name you as an irrevocable beneficiary in a life insurance policy. This makes it possible to protect the loaned amount up front from other creditors, in the event of bankruptcy, for example."

Rule 5: Think twice before guaranteeing a loan

Guaranteeing a loved one's loan is just as risky. In addition, you can be on the hook for not only the debt, but also any accrued interest.

"Guarantors feel like they aren't as involved as if they'd directly provided the funds, but that's not the case," says Leblanc. "They take on a new debt obligation if the borrower defaults."

Some may have their eyes on their parents' or grandparents' home equity or other lines of credit and wear them down with emotional blackmail to get what they want. "If you've never told them no in the past, it's difficult to start when money is involved," says Leblanc.

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Under the current conditions, many parents may be tempted to help children whose businesses are in trouble. However, warns Leblanc, “With $10,000, you may be able to put out the fire by paying rent, employee salaries and creditors. But, it’s quite likely that three months from now, business won’t be back to normal in restaurants, for instance. Is this the best way to help? It’s hard to say.”

Decisions like these are all about the numbers and a professional like a CPA or a trustee in bankruptcy can be of assistance. With guidance, lenders will be in a better position to get their money back in the future.

WEALTH MANAGEMENT

Why year-round financial housekeeping can help your business

Meeting regularly with a CPA to establish and maintain a good framework is just one of the ways to set yourself up for success.

Ask any CPA and they will tell you there is no shortage of small business owners who struggle with the ins and outs of their bookkeeping and accounting chores.

“The biggest problem I see is lack of good bookkeeping,” says Brian J. Quinlan, CPA and partner at Campbell Lawless LLP in Toronto. “It’s not very sexy but, the fact is, they sometimes take the importance of bookkeeping too lightly. As a result, it can get quite messy by the time you get to your accountant.”

If you’re looking to get your business’ finances in shape, here is some expert advice from CPAs in the know.

1) Consider incorporating

Your first conversation should be with a CPA, as incorporating can play a significant role in access to tax incentives and deductions. A CPA can tell you whether becoming a legal entity is the right choice in terms of managing liability and risk.

“If an incorporated business is sold for example, there is the **capital gains exemption**,” explains Quinlan. “And, if an incorporated business fails and has to wind down, there are special rules about how to write off a loss that you can take advantage of.”

There’s also potential financial protection to the owner in such a case, as debts of the corporation may be limited.

Research and development **investment tax credits**, for example, also favour Canadian controlled private corporations, he adds. “They can help minimize the tax rate you pay but you need to be incorporated to get the Scientific Research and Experimental Development (SR&ED) incentive, the biggest one from the federal government.”

2) Make tax planning a year-round task

It always helps to think in terms of year-round accounting practices. In many cases timing is everything, says Quinlan. “You may be missing out or paying too much tax too soon.”

COVID has muddied the waters for many business owners. The list of incentives and conditions is a complicated one and can easily be overlooked, says Quinlan. “If you’re not asking your CPA questions, you may be missing some of those incentives.”

Bernie Keim, a CPA practising in London, Ont., says that with COVID credits and incentives, accurate bookkeeping is more crucial than ever. “These programs have added a level of complexity to business accounting,” he says. “If you don’t have accurate bookkeeping and accounting for the year, you could potentially run offside with some of them.”

“Tax time is not once a year when the media brings it to your attention,” says Kim Moody, CPA and CEO of Moodys Tax Law LLP in Calgary and author of *Making Life Less Taxing*. “There’s plenty of good software to do routine bookkeeping throughout the year so there’s no excuse.”

Expenses should always be tracked in real time, he advises. “CRA insists on real invoices or receipts. Showing a bill from Staples that isn’t itemized doesn’t cut it,” says Moody. You’re not going to remember the details of a dinner in February at year end. Trying to backfill is an uphill battle.”

3) Don’t mix business with personal

It’s pretty common for small business owners to mix personal and business finances, says Keim. “The first thing I tell clients is to never use a personal bank account for business expenses or transfer money between personal and business accounts, even if they’re a sole proprietorship. It can get quite messy once you start doing that,” he says.

It’s especially important not to do this if a corporation is being used. If this is the case, then plan to pay yourself dividends or a salary for personal cash needs. That way, while the salary is taxable for the individual, the corporation should be able to deduct it.

Expense tracking is a particularly thorny issue, notes Keim. “One pet peeve is someone buying gas for a truck and then going into the shop to get a candy bar all on the same receipt. You have to separate all that out,” he says.

“Governments don’t look kindly on people claiming personal expenses as business expenses,” says Moody. “Discussing business with your significant other over dinner does not constitute a deductible expense. Taking holidays pretending that you have a business meeting doesn’t make it deductible.”

A precarious area where small businesses can run into big trouble is paying family members for their services, says Hugh Neilson, CPA with Kingston Ross Pasnak LLP in Edmonton and member of the editorial board of Video Tax News. While it can be done, it has to be executed properly.

“If everything is coming out of the same pocket, you have to track what jobs they did, how long did it take them, what you paid hourly and if that’s a realistic number that you would have paid a third party,” he says. “You really have to dot the i’s and cross your t’s when paying family members.”

4) Keep working with your CPA

Meeting with your CPA two or three times a year for advice allows you to have data on a timely basis, says Moody. "Your tax affairs might be in better shape than you think."

Sometimes business owners are afraid that talking to someone for 15 minutes will end up with a bill for $1,000, he adds. "Remember many (CPAs) offer free initial consultations. You never want to say to someone, 'I wish you had talked to me before you did that'."

When in doubt, it doesn't hurt to sit down with a CPA and go over your first month of record keeping to see what you could do better, says Neilson, "If you think the cost of getting good advice is high, try not getting advice and see what it could cost you."

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