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Canadian Citizenship:

The Wealthy Global Family's Safe and Tax-Efficient Alternative

Wealthy global families are becoming increasingly aware of their need for a well thought-out citizenship and residency strategy to protect their wealth and to safeguard their freedom of movement. In the uncertain world facing us today, prudent families understand the importance of keeping their options open and having multiple passport choices. Canada provides a safe and surprisingly tax-efficient alternative to many of the more well-known citizenships that the wealthy can consider acquiring. Canada also has a world-class professional services and financial infrastructure, making it an ideal location for their family office, particularly in the new 'post-bank secrecy' world.

Introduction

Wealthy global families are becoming increasingly aware of their need for a well thought-out citizenship and residency strategy to protect their wealth and to safeguard their freedom of movement.

In the uncertain world facing us today, prudent families understand the importance of keeping their options open and having multiple passport choices. If your family has a net worth of $50 million or more, you may already have started to investigate which combination of passports and residency is best adapted to your situation.

Those who have begun to examine this complex subject will have found that the problem is not the lack of options. Rather, it is identifying the right ones, and probably more importantly, avoiding the wrong ones.

For instance, how do you find a place that is safe, stable and free? That is livable, accessible and cosmopolitan? That offers 'first-world' health care, education, culture and services? That is business-friendly, family-friendly and privacy-friendly? That offers tax advantages and the opportunity to preserve family wealth? And, just as important, is likely to retain all these features in the future – both in the near-term and over the many ensuing generations?

For the first time in many years, a confluence of factors is causing many wealthy families to add Canada to the list of countries they are evaluating as part of their citizenship and residency strategy. This paper will review some of the pros and cons of Canada as a destination, but suffice it to say there are three main reasons for giving it serious consideration:

1. **An appealing destination and passport.** Canada has many of the most positive features of a developed country, with few of the most troublesome drawbacks. It is actively looking to increase the number of immigrants, particularly those who are educated and have high net worth. It takes only three years of residency to earn the right to apply for Canadian citizenship.

2. **A surprisingly-attractive tax regime for high net worth immigrants.** While historically viewed as a high-tax jurisdiction, Canada actually has a wide range of basic tax rates, no estate or gift taxes and no 'global tax leash' (i.e. permanent taxation based on citizenship). And although not well known, there are tax-reduction structures specifically designed for wealthy families immigrating to Canada that can allow for minimal taxation for the first five years of residency. As well, there are many attractive planning opportunities that can allow them to obtain a valuable passport with minimal tax consequences.

3. **World-class professional services and an ideal home for the family office.** Canada has a world-class professional services and financial infrastructure, making it an ideal location for the family office, particularly in the new 'post-bank secrecy' world.

The Backdrop

Why wealthy families should consider a portfolio of passports

As the world's economies continue to globalize and integrate, more and more wealthy families are recognizing that citizenship is more than just a nationality inherited at birth. In fact, citizenship and residency are powerful, strategic assets that can be acquired or given up in order to create a better life for themselves and their families. Citizenship is really about family, safety and choices.

Navigating the Terms

Citizenship is the right to live in, work in, and carry the passport of a particular country.

Residence generally has both a tax and an immigration element to it.

- ***Tax residence*** is usually based upon a count of the number of days a person spends in a jurisdiction or a review of various indicia of residency.
- ***Immigration residence*** is usually granted on a temporary or permanent basis. It may allow an individual physical presence, re-entry, or employment/study rights as well as land ownership.

Domicile is an estate-tax concept. It looks at a person's 'ultimate home'. All persons, even 'perpetual tourists' are deemed under law to have a domicile. Everyone acquires a 'domicile of origin' at birth. Then, they may acquire a 'domicile of choice' by changing their residence and acquiring long-term trappings of a new home, such as a cemetery plot and new will.

Many families have homes, businesses and investments in multiple countries. Some have children working or studying on different continents. Acquiring new residences and citizenships is a way of giving the whole family more options for the future and more shelters from the storm, in case of trouble or unrest in their home country. In today's complex and often-dangerous world, it is perfectly legal and natural for families to develop a comprehensive portfolio of passports that will provide strategic options, no matter what life, business or politics throws at them.

Without it, there are risks. Below we list three of the most serious threats.

Threat 1: Restrictions on mobility

All over the world, affluent business people who thought they had the freedom to travel have found themselves facing unexpected restrictions. If you look at the first page of your own passport, you'll see that it's not yours – it belongs to the government.

The government and its courts (even in civil or matrimonial litigation) reserve the right to take it away at any time. How would your life be affected right now if they did? Today, wealthy families treasure mobility. Prudent high net worth individuals and families are increasingly seeing the value of a second passport and a second home, and a strategy to ensure they have the right combination of citizenships and residencies to meet their needs and give themselves the ability to 'make the world their oyster'.

Threat 2: Increasing taxation

After a number of years of tax reductions in many countries, including the United States and the United Kingdom, the drums of significant tax *increases* are beating again, particularly in the wake of significant government spending to bolster their financial institutions and economies in the latest credit crisis. The wealthy are likely to be the targets of the tax increases as populist sentiment continues to take hold in economies around the world.

Threat 3: Family law and divorce settlements

Pre-nuptial agreements can be attacked in many jurisdictions. The best way to preserve a family's wealth is to make sure they have residency or domicile in a country that takes a hands-off approach to divorce and upholds legitimate pre-nuptial and trust arrangements, so they can make appropriate, and sustainable, decisions regarding marriage and divorce.

Of course, it takes time and specialized expertise to identify which countries provide the best combination of security and opportunity for each client. And once clients *do* identify the most likely jurisdictions, it's not always easy or cheap to get the citizenship or residence they are seeking; qualifying for those citizenships can take years. As you can appreciate, selecting the right portfolio of passports for each family is a job for experts, who understand the tax, financial and mobility needs of business families. To maximize their security and freedom, they also need advisors who know the pros and cons of multiple citizenship and residency opportunities around the world.

In fact, we would go so far as to say that getting this right may be the most important factor in determining whether wealthy families maintain and grow their wealth over their lifetime and future generations. If you think we are overstating its importance, it is worth remembering that the decisions made by our own ancestors to move from their country of origin had a profound effect on the course of not only their own lives, but those of the generations that followed them.

Why Canada Should Be On The Short List

Canada is one of the world's best-kept secrets. It hasn't always showed up on the list of potential countries for wealthy families looking for additional citizenships or residences. The reason is its (partly unfair) reputation as a high-tax and chilly-weather destination, and also the perception that better alternatives might be available.

But things have changed and so have the perceptions. Canada is now recognized as a much more attractive destination for wealthy families, particularly from a tax incentive and ease of immigration perspective. At the same time, the relative attractiveness of other destinations (such as the U.S., U.K., Switzerland, Caribbean tax havens etc.) has waned, for well-publicized reasons.

While Canada clearly will not be the solution for every family, it is definitely worth a serious look – now more than ever.

1. An Appealing Destination and Passport

Given that one of the goals of an alternative passport is flexibility and mobility when it is needed most, a Canadian passport must be near the top of the world passport pyramid in that regard. Canadians are welcome virtually everywhere in the world, and Canada offers one of the best passports for visa-free travel.

Yet there are also other motives for a family to give consideration to Canada as both a destination and the 'anchor tenant' in any passport portfolio they build. The types of issues every family should consider when evaluating potential destinations/citizenships, are outlined in the accompanying checklist.

Checklist of Factors to Consider in Choosing Citizenship and Residency

Livability
- Culture
- Cosmopolitan nature
- Openness of society
- Weather
- Environmental issues

Services
- Schools
- Healthcare
- Professional services

Security and stability
- Stable, democratic government
- Crime levels
- Terrorism risk
- Long-term access to key commodities (clean water, food, oil, minerals, land)

Personal taxation
- Taxation base policy (residency or citizenship)
- Income tax regime
- Estate and capital taxes
- VAT

Business factors
- Business-friendly environment
- Corporate tax rates
- Access to educated labour force
- Access to professional business services

Location
- Time zone (for ease of communication)
- Travel distance (for family, business, services etc.)

Mobility
- Degree of respect the passport carries on a worldwide basis
- Visa-free travel
- Easy access to flights/hubs
- Ability to move money freely
- Freedom of movement within the country
- Right to work/live in other countries in the same trade bloc
- Ability to choose new domiciles and residences

Rule of law
- Enforceability of contracts
- Fair courts

Immigration issues
- Cultural heterogeneity and acceptance of immigrants
- Desire of country for immigrants
- Tax incentives for immigrants
- Naturalization requirements and timeframe

Other factors
- Mandatory military service
- Privacy and reporting requirements

Source: Author research

Workable and livable

Canada is one of the safest, most stable countries in the world. It has a democratically elected government (and has since it was founded over 140 years ago) and operates a mixed market economy, with both business and government participation.

It is an attractive place to work, do business and own property - increasingly so over the past 20 years, as corporate tax rates have been intentionally lowered to very competitive levels. Canada offers a world-class level of professionalism and service, has a capitalist but well-regulated economy, enforces the rule of law (including property ownership and human rights), and its location provides easy access to and communication with the United States. Further advantages include qualified, educated staff, scores of sophisticated service providers and high quality communications and office space. Dr. Richard Florida, an American academic and author now at the University of Toronto's Rotman School of Management, suggests that "the axis of Montreal, Ottawa, Toronto, Waterloo and Chicago is a *mega-region* that has the potential to be a world powerhouse."[1]

Canada is also an attractive place to *live* – a very important consideration in presenting a potential move to family members and key personnel, and enabling family leaders to 'sell it at the breakfast table' to their loved ones. It offers good quality universal health care (and nearby access to Canadian and U.S. paid procedures, if desired), excellent schools (both private and public), generally efficient services, low crime rates, and minimal racial or other social tensions. Canada is also viewed as being more open-minded and multicultural than many other jurisdictions, particularly in its world-class cosmopolitan cities of Toronto, Vancouver, Montreal and Calgary. And the cost of living compares favourably with many other major centres, as can be seen in the accompanying chart.

The social ethos in Canada is that the country is a multicultural mosaic, and religious, linguistic and cultural minorities are allowed, and even encouraged, to maintain their culture in their homes and religious institutions. At the same time, while Canada is a free country, Canadians do expect new arrivals to leave religious, social and other conflicts 'back in the old country' and try get along with their neighbours, regardless.

[1] *National Post*, May 2009

Canada, like every country, has positive and negative attributes. The relative importance of each issue will depend to a large extent on the particular issue being compared and the preferences of the family.

Cost of Living Around the World

City	Excl. rent New York = 100	Incl. rent New York = 100
Oslo	112.5	88.1
Zurich	108.4	84.7
Copenhagen	108.4	81.8
Geneva	106.8	85.5
Tokyo	102.0	85.3
New York	100.0	100.0
Helsinki	94.5	74.4
Vienna	93.5	68.9
Paris	93.3	76.6
Dublin	92.7	76.3
Munich	92.3	69.5
Caracas	91.0	76.6
Frankfurt	90.8	70.6
Luxembourg	90.6	69.8
Los Angeles	88.1	72.7
Stockholm	87.0	65.5
Rome	86.7	69.4
Lyon	85.2	62.2
Dubai	84.9	78.4
Brussels	84.7	67.6
London	84.6	69.9
Barcelona	83.5	65.3
Amsterdam	83.0	64.4
Singapore	82.0	70.7
Chicago	82.0	72.0
Madrid	81.0	63.1
Berlin	81.0	59.8
Hong Kong	80.9	75.2
Miami	79.3	69.6
Milan	78.9	64.4
Toronto	**78.9**	**63.0**
Montreal	**76.3**	**59.6**
Tel Aviv	75.5	57.3
Istanbul	74.2	58.9
Lisbon	74.0	57.8
Athens	72.7	54.6
Nicosia	72.7	56.6
Sydney	68.5	56.6
Doha	67.6	62.2
Ljubljana	64.3	48.1

Source: Purchasing power around the globe, 2009, UBS

Immigrants wanted

Given the low domestic birth rate, the Canadian government is actively targeting population growth through immigration, with particular focus on educated, high net worth individuals and families. Canada currently takes in more than 250,000 immigrants a year, which is the highest per capita rate of immigration in the developed world. Despite the current weakness in the global economy, Canada has no plans to reduce its rate of immigration, and in fact programs are being added, and policies are being changed to speed up the process of accepting new immigrants. Although there have been processing delays for permanent residence, receiving proper immigration advice and structuring can speed up the acquisition of Canadian citizenship.

With proper planning, Canada has very light 'tax and physical presence for naturalization' requirements. In addition, there are a number of pathways to residence for business people and highly skilled individuals. The most appropriate strategy for a particular individual or family should be determined with the assistance of experienced advisors and legal counsel. (See the 'Citizenship Track' diagram on page 10 for a sample path to Canadian citizenship.)

Well-positioned for the future

Canada also has an attractive set of features that makes it an excellent location for not only current, but also future generations. It has important environmental and resource attributes, which are almost certain to become more critical and strategic in the decades ahead, such as clean air and water, available habitable land, local food production, and vast oil and mineral production.

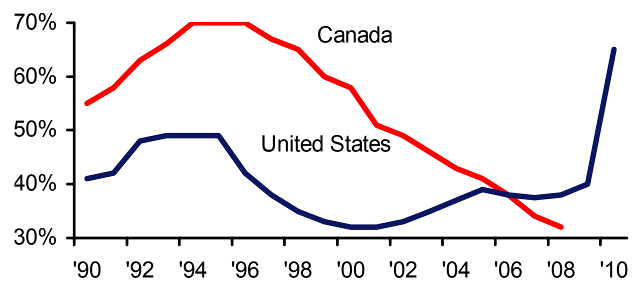
Canada is also well located geographically, being *near*, but not *in* the U.S., which provides the additional safety of being inside the U.S. security 'hard-shell', without being subject to the somewhat ominous U.S. security apparatus.

The fact of the shared border, language and history with the United States clearly situates Canada in the 'American orbit'. Almost 75% of Canada's exports of goods and services are accounted for by trade with the U.S. [2] However, given Canada's reputation as a reasonable, responsible and consistent partner on the global stage, Canada also has extensive contacts with other trading partners, particularly the BRIC countries (Brazil, Russia, India, China) and the Euro-zone.

In the most recent credit crisis and global recession, Canadian fared relatively well, due in part to its strong, stable world-class banking system, careful regulation, and prudent government policies over the previous 20 years, including a focus on balanced budgets and reduced spending.

Long derided by American conservatives as 'socialist' and a big spender, Canada is casting off those stereotypes.[3]

Federal Public Debt as a Percentage of GDP



Source: OECD, Statistics Canada

In particular, the major Canadian banks did not suffer the kinds of catastrophic losses and write-downs that were seen in the United States, Europe and elsewhere. Canadian banks had been much more cautious in their investments, and had little involvement in the U.S. sub-prime sector. Although there were some issues that arose due to the lack of liquidity in global markets, the major banks and financial institutions, with government support, worked out a way to stabilize the market and did what was necessary to keep credit flowing. In fact, "all of Canada's main banks were profitable in the quarter ending January 31st 2009, when market conditions were at their worst."[4]

This conservative and co-operative approach to business is typical of Canada's financial sector which places a high value on ensuring that the institutions remain collectively strong over the long term. A survey of global executives in late 2008 by the World Economic Forum indicated that Canada's financial system is widely considered to be the soundest on the planet. [5]

[2] *Trade and Investment Update – 2009,* Canadian Department of Foreign Affairs and International Trade

[3] *Great Right North*, J. Edwards (Cato Inst.), J. Clemens (Pacific Research Inst.), N. Veldhuis (Fraser Inst.), Washington Post, May 2009

[4] *Don't Blame Canada: A country that got things right,* The Economist, May 2009

[5] *World Economic Forum Global Competitiveness Report 2008-2009*

Canada also seems to be well-positioned to recover any lost ground fairly quickly. Although the Canadian economy is highly integrated with that of the U.S., Canada's abundant energy and other resources and commodities should benefit from continuing high levels of demand from Asia and elsewhere as the global economy returns to stride. Although the Canadian economy is highly sophisticated and developed, this resource base will help support development and growth over the long term.

World's Soundest Banking Systems

1. **Canada**
2. Sweden
3. Luxembourg
4. Australia
5. Denmark
6. Netherlands
7. Belgium
8. New Zealand
9. Ireland
10. Malta

Source: World Economic Forum Annual Report 2008-2009

The weather and other challenges

Of course, Canada is not a problem-free country. It has its share of difficulties in terms of ecology, economic efficiency and politics. Some are linked to the way the country grew up historically, such as Quebec nationalists pushing for a change in political status. Other challenges include the current economic dependence on the United States.

Yet, as a country built over many years on 'evolution instead of revolution', Canada has successfully managed such situations with compromise and diplomacy, and seems likely to continue to do so.

And then, of course, there is the weather. Because Canada is the second largest country in the world in area and covers a range of latitudes similar to those of mid to northern Europe, it has all four seasons, where weather and temperatures can vary considerably. In summer, you can expect mild to glorious weather and open-air restaurants. In winter, it depends very much on the region. Temperatures can be -20C or lower, with heavy snowfall in some areas, through to +10C and higher, with infrequent snow activity.

If you are not a winter sports enthusiast, you can normally avoid Canada's winter weather by spending the entire season in a warmer climate outside of Canada, without impact on your application for Canadian citizenship.

2. A Surprisingly-Attractive Tax Regime for High Net Worth Immigrants

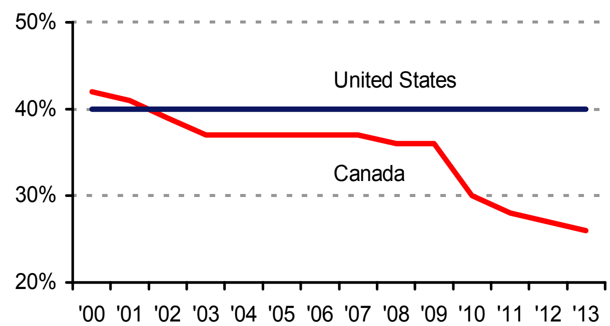
Canada has historically been thought of as a high-tax jurisdiction (with generous social programs) and, for the most part, this was true in the past.

So what is the story today?

To begin with, it is important to note that there is a *wide range of effective personal tax rates*, depending on the province (there are 10) and the type of income being taxed (employment, interest, dividend, capital gain etc.). Specifically, capital gains and dividends are taxed at substantially lower rates than employment income and interest. The top marginal rates of tax can range from a high of 48% to a low of 19%, depending on the source of the income and the jurisdiction in which it is being taxed. However, good planning can often result in paying at the lower end of the rates available.

In addition, *corporate tax rates* in Canada have come down dramatically in the past few years and are now below those of the United States, on average. The use of Canadian corporations to hold the shares of active foreign businesses allows residents to determine the timing of when tax on offshore profits will be paid, and can reduce the Canadian income tax eventually paid.

Corporate Tax Rates



Note: *The Canadian rate is for Ontario; the U.S. rate is the average federal/state rate.*
Source: OECD, Statistics Canada

And, it is also important to keep in mind that you get what you pay for – Canada is safe, clean and has proper infrastructure. Most importantly, wealthy people in Canada feel no need to live in gated or guarded communities because the police and other authorities are well-paid, professional and work within a strong 'rule of law' system where life, liberty and human rights are vigorously defended.

Canadian taxpayers generally feel that their government is honest and competent, that their tax dollars are well administered, and that they typically get good value for their money in the form of quality public schools and reduced costs of excellent university education. Canada's universal health care, while not problem-free, is generally well-regarded by Canadians.

Having said all that, *tax rates* are only one side of the equation. And when looking at actual *tax paid*, a focus on rates alone can be grossly misleading. The other part of the equation is the *taxable income*, against which the relevant tax rate is applied, as is evident in the equation below:

Tax rate x Taxable income = Tax paid

The real story of the fiscal regime in Canada today is that the tax paid can be substantially reduced through the use of basic tax planning. By being able to significantly control and reduce taxable income (essentially by making more income non-taxable), the taxpayer is able to achieve a low tax burden, even despite the fact that tax rates in a particular jurisdiction may be high. And, as we will see below, for most immigrants and their progeny, with the proper advice, the income tax burden can often be further reduced and, in some cases, virtually eliminated.

In today's 'by the book' world, it is also worth noting that this tax planning is legally well-established in the Canadian tax code.

Immigration Trusts

The Canadian Income Tax Act specifically permits the creation of what are called 'Immigration Trusts'.

An Immigration Trust is any trust established in a jurisdiction outside of Canada by the immigrant for the benefit of himself or herself and other family members. The immigrant then transfers all of their assets (that are not immediately necessary in Canada) to the trust, either immediately before or after becoming resident in Canada. Under this structure, any income earned by the assets would not be attributed to the immigrant/contributor during the first five tax years of residency in Canada, and such income is therefore not taxable in Canada.

However, any income earned by the assets of the Immigration Trust can be capitalized the following year, and can then be paid out as a tax-free distribution of capital to any beneficiary resident in Canada. This structure can result in an immigrant paying no Canadian income tax for five years after becoming a Canadian resident, provided that the income is not earned (and the assets and trust are not situated) in Canada.

Other tax advantages for wealthy immigrants

Canadian tax law also provides a 'step up' on the cost base of an asset upon immigration. This can be very advantageous for many high net worth individuals. For example, if you started a company in 20 years ago with $100 that today is worth $100 million dollars, at which point you become a Canadian resident, your cost base for Canadian tax purposes would be the fair market value of your assets (i.e. $100 million) on your date of arrival in Canada.

If the shares of the company are rolled into an Immigration Trust before or after you arrive in Canada, for the next five years any dividend income from the shares, as well as any capital gains on the sale of the shares, would not be subject to Canadian tax.

If you are still resident in Canada, at the end of the five years, the trust assets receive a further step-up to the fair market value of the assets at the end of five-year Immigration Trust period. The new (hopefully higher) value of the shares and accumulated dividends becomes the new tax cost for Canadian purposes.

Moreover, if you leave Canada before the end of the five-year immigration trust period, there is no deemed disposition of, nor capital gains on, the non-Canadian trust assets on departure. If you leave Canada after the first five years of residency, then there will only be tax on any increase in value in the assets from the end of the five-year Immigration Trust period until the date of departure.

The combination of the short (three year) residency period required to obtain citizenship, and the five-year period of the immigration trust means it is possible, with careful planning and execution of the plan, to obtain Canadian citizenship without paying any income tax in Canada. (See the 'Citizenship Track' diagram on page 10 for a sample path to Canadian citizenship.)

Protecting family wealth for future generations

In addition to the fact that Canada does not have an estate tax, the Canadian tax and legal system has several attributes that allow families to preserve wealth over generations. Non-residents of Canada (regardless of whether they have Canadian citizenship or not) who have not been resident in Canada for five years, and who will not become residents within five years of making a contribution, can establish trusts (in any non-Canadian jurisdiction) for the benefit of Canadian residents.

As discussed, Canada doesn't tax distributions of capital to a Canadian resident from a trust that is not resident in Canada. As a result, if you are non-resident in Canada (citizen or otherwise), but your children live in Canada, your children can receive 'capitalized' income (income from the previous year) from such a non-resident trust (which includes a non-resident estate) tax-free, effectively forever.

As a result, such tax-free distributions to Canadian residents can continue over multiple generations. You are also allowed to 'top up' (i.e. make subsequent contributions) to such a trust on your death if you are a non-resident of Canada at the time, and have not been resident in Canada for five years prior to the time of death. Such trusts, known as 'Granny' or 'Dynasty' trusts, if properly drafted and administered, can also provide some protection for family wealth from excessive divorce settlements against Canadian resident children and grandchildren.

A very different tax and reporting regime compared to the United States

Because of its proximity to and close relationship with America, Canada is often thought to have a tax regime very similar to that of the United States. However, this is not the case. For example, Canada taxes individuals, not the family as a unit as is the case in the U.S. Subject to certain anti-avoidance provisions, this allows for significant planning opportunities.

Moreover, as mentioned previously, Canada does not have gift or estate taxes. People are often surprised to hear this, since Canada is often 'lumped in' with the United States and assumed to have a similarly onerous tax on death. In the U.S. and many other countries, these taxes can be substantial and are often not factored in to tax comparisons between jurisdictions.

In fact, where the United States taxes a person's capital on death (at high rates), in Canada, when you die you are simply deemed to have disposed of all of your assets and you would pay capital gains tax (the lowest rate) on any gains.

Any tax payable is paid by the estate of deceased from the assets of the estate. Therefore, the beneficiaries receive the assets with a newly-established fair market value 'cost' for tax purposes. Of course, the situation is somewhat more complicated if the beneficiaries are non-residents of Canada, but the system endeavours to have realized gains taxed only one time, and at relatively advantageous rates.

There are also protections available for surviving spouses on the death of the first spouse, and there is an unlimited exemption from tax for the primary residence of the deceased. Moreover, the proceeds of qualifying life insurance policies are not taxable in Canada, which also creates planning opportunities. Often Canadians will carry enough life insurance to cover any tax on latent gains of other assets that may arise on death. There are also many other ways to mute or defer the effect of the rules concerning deemed disposition on death.

Furthermore, Canada does not tax gifts received by individuals from their foreign relatives after arrival. So effectively, from a Canadian tax perspective, if a family receives wealth (from an estate, for example) after they arrive in Canada, that family will not pay capital gains tax on that initial wealth in Canada at any time.

By comparison, for a Canadian citizen, so long as they have clearly given up residency in Canada[6], they are not taxable in Canada except on the subsequent disposition of prior existing real property in Canada. (Note: The subsequent disposition of a principal residence may still remain tax-exempt, depending on the facts.)

Departing Canada for tax purposes is similar to the event of death in that a deemed disposition for capital gains purposes is triggered. If you leave Canada before the end of the five-year immigration trust period, there is no deemed disposition of the

[6] *Residency is a question of fact and law. Individuals have to be careful to give up their connections to Canada, particularly if they are spending most of their time in a jurisdiction with which Canada does not have a tax treaty (e.g. Hong Kong, Taiwan, and effectively Kuwait and Dubai). A list of countries which have tax treaties with Canada can be found on the Canadian Department of Finance website.*

non-Canadian trust assets on departure, and so there is no deemed capital gain.

Canadian Capital Gains Planning Example

A couple jointly own shares in a corporation worth $10 million. Prior to arrival in Canada, where they plan to retire, they transfer the shares to an Immigration Trust in a non-Canadian jurisdiction with low income and capital gains taxes (such as Barbados or Cayman Islands).

During the five-year Immigration Trust period, the value of the assets climbs to $20 million. The couple remains in Canada after the five year period.

Their cost of the shares for Canadian tax purposes is $20 million. For the next 20 years they plan to sell a fixed portion ($1 million) of the shares each year. In year six there has been no increase in the value of the shares, so the shares would be sold at 'cost'; the $1 million they receive would be tax-free in Canada. In year seven, the value of their remaining shares increases to $28.5 million (a 50% increase), so the $1 million in shares they planned to sell each year are now worth $1.5 million. If they sell the same number of shares in year seven, they would receive $1.5 million and realize a $500,000 capital gain (the $1 million 'cost' of the shares remains tax-free).

Under Canadian tax law, as the shares are joint property, the husband and wife are deemed to have received a gain of $250,000 each on the shares. Subject to various provisions of the tax law, this income will be taxed as capital gain. The couple will receive $500,000 in 'income', but for each of them only 50% of that amount ($250,000) will be included in their taxable income (i.e. $125,000 each), on which the income tax payable will be about 31.4% in total, or about $39,000 each.

So the actual income tax rate payable on the $500,000 in post-arrival gain is only about 15.7%. If you include the gains made during the first five years under the Immigration Trust, the effective rate is under 8%. In either case, the actual effective tax rate is much lower than Canada's top marginal rates.

For income in the form of capital gains on amounts in excess of $500,000 split between husband and wife, the top effective income tax rate ranges between 19% and 24%, depending on the province of residence.

Another very important distinction between Canadian and American taxation principles is that Canada taxes on the basis of residence, not on citizenship as the United States does. If an American citizen leaves the United States and becomes resident in another country, they must still pay U.S. taxes on their worldwide income even though they no longer live in the United States.

If you leave Canada after the first five years of residency, then there will only be tax on any increase in value in the assets from the end of the five-year Immigration Trust period until the date of departure.

It is also interesting to note that Canadian reporting requirements are significantly less than those of the United States. In particular, for new immigrants who become residents of Canada, the Canadian government requires only minimal disclosure about their non-Canadian assets. For example, disclosure of non-Canadian assets during the first five years of residence might amount to nothing more than checking a box that confirms, for instance, that 'I have assets over $1 million in a non-Canadian trust in the Caribbean.' And because Canada does not tax non-residents, there is no disclosure required to the Canadian tax authorities once a citizen leaves Canada, and becomes resident elsewhere.

A means to an end

While Canada is an increasingly attractive residency and citizenship destination, it is also an interesting option as a *transit jurisdiction* on the way to becoming a truly global citizen. It only takes three years of naturalization to become a Canadian citizen.

If an individual were to become a citizen, he or she could then leave Canada before the end of the five-year Immigration Trust tax holiday (i.e. become a non-resident Canadian citizen). In such a case, the individual's global assets that were not brought to Canada would *never* become subject to Canadian tax. And, as previously mentioned, unlike the case for a U.S. citizen, the Canadian government requires no tax or banking reporting from its non-resident citizens.

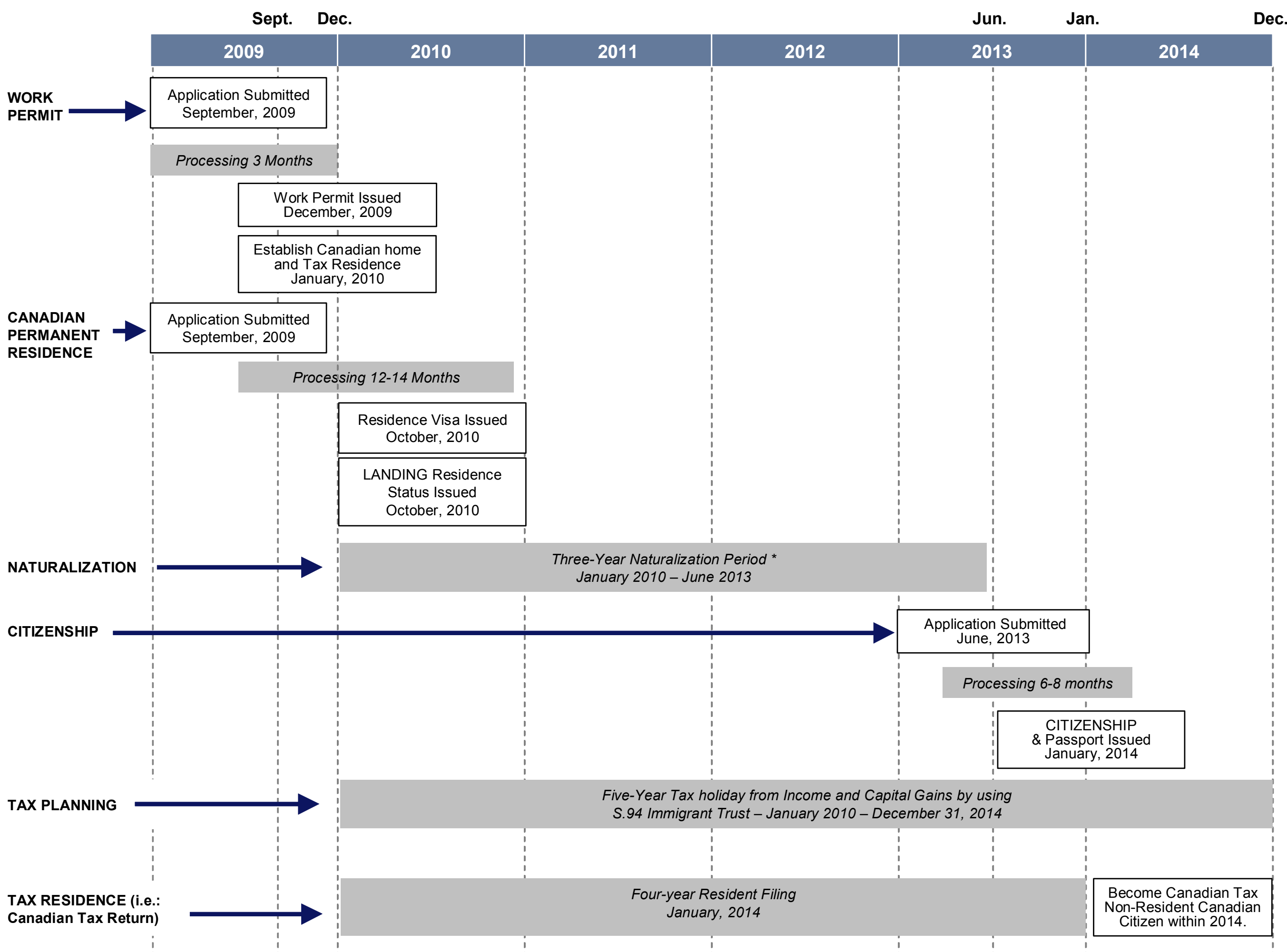
In other words, you could end up with a high quality, OECD-level passport, but you would not be taxed if the only tie you had to Canada was citizenship.

Also, Canada has a very good tax treaty net that allows you to achieve non-residency easily if you go to a treaty-country, such as Switzerland, France or Barbados.

If a citizen moves to a non-treaty country, such as Hong Kong, Taiwan, effectively Kuwait and Dubai, you can still become a non-resident. However, to be prudent this means giving up all ongoing connections to Canada, other than the Canadian passport.

Citizenship Track

Canadian Work Permit Combined With Permanent Residence Leading to Citizenship



** Less credit for time spent living in Canada on Employment/Student Visa (1/2 of full day count*

3. World-class Professional Services and an Ideal Home for the Family Office

A growing number of families are also choosing Canada as the location of their family office or private investment office – a logical extension of the family citizenship and residency decision. The attractive features of the country, the location and ease of mobility, the world-class professional resources, and the fact that it is near, but not in the United States and therefore not subject to its intensive reporting requirements, combine to make Canada an ideal venue.

There are also world-class multi-family offices in Canada for those families who prefer not to bear the full expense of carrying their own dedicated family office.

In the past, wealthy global families have found a home at the global private banks, but the current financial crisis has caused many families to reassess. Arthur Lancaster, managing director of Boston Group suggests "the MFO concept continues to gather pace…as wealthy families' disenchantment with private banks corresponds with top investment talent disillusionment [at private banks], bringing together demand and supply."[7]

An article by Philip Marcovici, a partner in the Zurich office of international law firm Baker & McKenzie, suggests that this trend is not surprising. "Only a few global banks are truly successful in their delivery of services to the world's wealth owners….Even in financial institutions with…sophisticated wealth management capabilities, a 'product' approach is taken, with private bankers trained to 'sell' trust, insurance and other 'solutions' to specific tax issues."

Marcovici adds "there is a gap between the real needs of wealth-owning families and the services they receive from all their advisers. Although there are certainly families receiving the holistic approach to wealth management that they need, the majority are served by specialists focused on one element of wealth management…*The question becomes whether anyone is looking at the big picture and the wide range of issues that typical wealth-owning families face.*"[8]

What is a Family Office?

A family office typically acts as a Personal CFO or Chief Advisor to wealthy families, with a dedicated team of professionals who oversee and manage the complete financial affairs of wealthy families.

With origins tracing back to wealthy 19th century European and American families, family offices have a long history of providing a wide range of highly specialized and custom-tailored services, which can include tax and estate planning, succession planning, investment management coordination, philanthropic planning, family education and various administrative functions.

Families in Business magazine reports that "family offices are being established at a rapid rate across the globe, largely in response to unprecedented transfers of wealth and business control, cultural and generational shifts, and amplified demand for unbiased and sophisticated advice and services."[9]

Families usually engage a family office when their net worth has grown to a size where full-time professional management is required or could be beneficial. Also, as families' interests become more global, "wealth needs have become more complex," says Samantha Bradley, a partner with law firm Withers LLP. [10]

A *single*-family office (SFO) is created and overseen by a family themselves and devotes 100% of its time and attention to that one family. Not surprisingly, it can be very expensive. A *multi*-family office (MFO) serves the needs of multiple wealthy families, which allows the costs (and of course the attention) to be spread across a number of families, with confidentiality carefully protected.

The best description of a family office is captured in a quote from Baker & McKenzie lawyer Philip Marcovici. "Families need a trusted advisor, not someone who has all the answers – something that is impossible in an increasingly complex world – but someone who has the experience and resources to raise the right questions."[11]

The service model offered to wealthy families has had to change in lock-step. "For many years, the unspoken focus of wealth management has been to take advantage of bank secrecy rules…to help wealthy owners 'hide their money' despite the tax rules of their own country…Growing regulatory pressure is curbing this market…An unstoppable trend toward greater global transparency...is rendering this model obsolete."[12]

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[7] *Campden FO*, Spring 2009, p. 18

[8] *The Wealth Management Industry and Today's Wealth-owning Families: From Chaos Comes Opportunity*, Philip Marcovici, CFA Conference Proceedings Quarterly, Dec 2007

[9] *Boom time for family offices*, Families in Business, Feb 2008

[10] *Boom time for family offices*, Families in Business, Feb 2008

[11] Marcovici, CFA Conference Proceedings, Dec 2007

[12] Marcovici, CFA Conference Proceedings, Dec 2007

Example 1: Wealthy Global Family

Edward Verona is in his sixties and, like many people on the Forbes 400 list of wealthy individuals, he made his money himself. Edward is happily married, with two children who are currently single young adults nearing college graduation age. Edward's anxiety level has been increasing in the past year as he has seen the government of his current country spend large amounts of money and add significantly to its already enormous debt.

Given his government's increased tax revenue needs, Edward's suspicion that wealthy taxpayers like himself will be asked to contribute significantly more of their wealth to the government is confirmed every time he picks up a newspaper. Closer to home, Edward has recently met both of his children's fiancés for the first time and has some concern that, in at least one case, the marriage may not last.

The impact of the financial crisis on his personal wealth, the looming tax increase and the pending nuptials of his children has spurred Edward into action. He has sought proper legal advice as to how to protect and grow his existing wealth, so that he will be able to pass it on to his children and grandchildren. Initial suggestions requiring that he and his wife immediately move from their comfortable country home to a small Caribbean island, were dismissed immediately as being too jarring a change to their existing lifestyle. After further exploration, the following proposal was accepted:

1. Create a trust in an asset protection jurisdiction outside Canada. This trust names the children as potential beneficiaries, but places the condition that, if married, all beneficiaries must have pre-nuptial arrangements acceptable to the trustee. The trust also is structured to act as a Canadian Immigration Trust.
2. Create a Canadian domestic corporation for the following purposes:
   - basis for a work permit
   - Canadian family office
   - future permission to travel during naturalization period
   - draw down money from the trust for consulting services
   - gross-up for tax purposes
   - Canadian living expenses.
3. Secure Canadian work permit, then permanent residence, then citizenship.
4. Re-establish home and lifestyle in Canada. (Note: Depending on the 'departing country,' they may still be able to spend part of the year there.)

Expected Outcomes:

- Edward can secure an excellent travel document with preferred visa-free access to virtually any jurisdiction.
- He can manage his financial affairs as well or better from Canada. Using a family office located in a well-serviced and reasonably-regulated market, he pays less in fees and gets more service than he would at a large domestic institution.
- Through a combination of an asset protection trust and mandatory pre-nuptial agreements (which are generally upheld in Canada), Edward can protect the family wealth from excessive divorce actions.

Other jurisdictions

Clearly there are many potential jurisdictions and locations for global families and/or their family offices to consider.

However, given the events of the past several years in particular and the threats they expect in the future, wealthy families are increasingly looking for stability (including political, economic and banking systems), preservation of their wealth (from risk and taxes), and access to world-class professional services (with both a global perspective and a commitment to the family) that can help them thrive.

A recent article in The Economist proffers: "It is a sign of the political times that countries such as Switzerland and Britain, long seen as havens for the wealthy, are changing the rules. Governments around the world would like a bigger share of the pie as they seek to narrow deficits and placate angry electorates. One route they have been pursuing is cracking down on tax havens."[13]

[13] *Plucking the chickens*, The Economist, April 2, 2009

Specifically, the UK, with its recent 'non-dom' policies, is viewed to have signaled a new less-welcoming era for wealthy global families, and the current privacy challenges being faced by Switzerland and other 'tax haven' jurisdictions in the Caribbean and elsewhere have also caused families to broaden their search to include other, in some cases more suitable, destinations.

Of course, the United States has its own unique set of issues, many of which are well known and may be of concern to wealthy families, particularly those who are citizens and/or residents:

- Significant disclosure issues
- Documents and information subject to search and seizure by U.S. authorities
- The constant shadow of the U.S. law enforcement network (e.g. IRS, ICE, CIA, FBI, SEC etc.) can create an oppressive operating environment where even small compliance errors can become serious felonies and subject to penalties, fines, and jail time
- Civil litigation exposure in the very generous U.S. jury award-based legal system.
- The likelihood of rising taxes (particularly for the wealthy, who already pay the large bulk of income, capital gain and estate taxes).[14]
- The pending legislation in the U.S. Congress that will require family investment pools/ family offices with assets greater than $50 million to register with the SEC and report each family member's partnership interest.

In fact, in the new 'post-secrecy' world, having your family office in Canada could be viewed as 'hiding in plain sight'. For example, some Latin American governments have a list of countries that receive 'extra scrutiny'. Canada is not normally on those lists.

Continuing the example, you could set up a trust under the laws of Canada and have it managed by a Canadian bank/ trust company with a branch that is resident in another jurisdiction (i.e. the trustees of the trust are not resident in Canada). The trust and the foreign branch are not taxable in Canada, because Canada taxes on the basis of residency and the residency of a trust is where its 'mind and management' is located (i.e. in this case it would be non-resident).

[14] *The top 1% of U.S. taxpayers was responsible for 38.4% of all income taxes paid. It seems unlikely that developed countries will ever go back to the income tax rates of 90% or more seen in the 1970s, but some of the higher taxes recently introduced will surely stick. Source: Plucking the chickens, The Economist, April 2, 2009*

Effectively, although the family office providing service to the family may be located in Canada, this does not render the family taxable in Canada, as the costs would be on a fee-for-service basis. The trustees and the 'mind and management' of any family trusts, corporations or entities remain where they are.

Example 2: Financial Entrepreneur

Until recently, Helen Williams ran a successful hedge fund in the City of London. Although her contrarian fund did relatively well in the credit crisis, the recent changes in the U.K. non-dom tax rules, the increase in top U.K. income tax rates to 51%, and the devastating U.K. divorce of her sister who ran a competing fund have combined to spur Helen to seek advice. She wants to know whether there is another more favourable jurisdiction in which to locate the fund, herself and her key staff.

Initial conversations about following the suggestions in the financial press of relocating to a traditional tax haven in Europe almost resulted in a palace revolt by her key employees. Most of them did not feel that they could sell this location to their own families because of the isolation, cost and availability of schools and housing, as well as language and cultural differences. Helen also had to admit that quality office space and the general cost of living would be expensive.

Finally, it became evident that securing qualified support staff would be difficult given that the local pool of available candidates was thin and getting thinner. Even if she was able to force the move, Helen knew that the attrition rate of departing key employees would be significant within the first few years.

After seeking some additional advice, Helen decided to relocate her fund to Canada. The main reasons were as follows:

1. A deep and qualified potential employee pool, a quorum of lawyers, accountants and prime brokers, and first-rate office space.
2. The likelihood of attracting and retaining key employees because of the ability to replicate the lifestyle they enjoyed in London (schools, housing, restaurants, culture etc.) at a fraction of the cost.
3. The ability of Helen's key employees to keep more of their gross income by personal pre-immigration tax planning for all employees being moved from London, as well as the use of an Offshore Feeder Fund structure for the hedge fund.
4. The opportunity to replace some key employees (if necessary) with highly qualified local hires.

Conclusion

Canada offers solutions that are both attractive and realistic to many of the tax challenges that high net worth families face today. The advantages are, in many cases, unmitigated by any significant disadvantage. A further important consideration is that they also leave wealthy families free to pursue a global citizenship and tax strategy without any accompanying 'tax leash'.

Standards of living are amongst the highest in the world, in an environment that also ranks highly in terms of safety, stability and freedom. As a 'safe haven' with many unsung tax planning possibilities, it almost seems that the only thing missing is more publicity for the substantial advantages on offer.

Not only that, but Canada's specific goal is to attract immigrants, and wherever possible, those with significant resources of a good education or financial wealth. On top of the other tax advantages, wealthy families immigrating to Canada also benefit from further red carpet preferential tax treatment, notably in terms of highly advantageous capital gains and estate tax regimes.

The window of opportunity for wealthy global families is therefore open at the moment, and those who now include Canadian citizenship in their overall passport portfolio are likely to savour the additional benefits for many generations to come.

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