US estate tax

US estate tax can arise on the death of a Canadian taxpayer who owns property that is connected to the United States at the time of their death. This estate tax is applicable to all individuals whether or not they are US citizens or green card holders. This paper will discuss the nature of US estate tax, the implications to Canadian taxpayers and strategies that can help individuals that hold US property (including US-domiciled ETFs) to reduce their exposure to US estate tax.

When US sstate tax applies

Under US tax rules, US estate tax will apply at the time of an individual's death based on the fair market value of the assets at that time. US Estate tax applies to individuals who own assets tied to the US valued at more than $60,000 USD and have a worldwide estate exceeding $11,200,000 USD at the time of their death. Examples of assets that would be considered linked to the US can include:

- US real estate property
- Stocks and bonds of companies domiciled in the US
- Interests in partnerships of US companies
- Tangible personal property in the US
- US retirement plans (401K and IRAs)

Calculating the amount of the US estate

An 18% tax rate will apply to estates that are deemed eligible for taxation. For estates that are greater than $1 million, the top rate of 40% will be applied. The tax treaty between the US and Canada allows for Canadian taxpayers to lower their estate taxes through the available credits and deductions. One such credit that exists between the US and Canada allows for estate tax to be reduced by a credit amounting to the greater of:

1 **$13,000** **or** **2** **$4,425,800 x (amount of US assets ÷ amount of worldwide assets)**

For example, John is a Canadian resident whose estate is valued at $30 million USD. His US investment portfolio is worth $5 million. In this case, the treaty allows for a credit equal to the greater of:

$4,425,800 × (**$5 million** ÷ **$30 million**) = **$737,633**

John's investment portfolio

John's estate

In this case, John's estate will receive a credit equal to **$737,633.**

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Investments

Tax planning opportunities

In order to eliminate the potential for US estate tax, one may want to consider the following strategies:

- By investing in Canadian-domiciled ETFs, the investor will be able to gain exposure to US markets without holding shares of a US-domiciled corporation or a US-domiciled ETF thus ensuring that US federal estate tax is not triggered on death. This is because the investor is deemed to be investing in the Canadian ETF rather than the US ETF.
- Assets can be left to a spouse to take advantage of the additional marital credit.
- The investor can hold US situs assets such as stocks, bonds and US-domiciled ETFs inside a Canadian corporation. At the time of death, estate tax will not apply to these assets as they are deemed to be held by the Canadian corporation, and not by the investor who holds the shares of the corporation.
- An individual will be exempt from US estate tax if their worldwide estate is less than $11.2 million USD. The investor may consider severing joint tenancies of assets or gifting assets while alive to reduce the worldwide estate. Investors should pay close attention to any negative tax consequences when considering these strategies.

For more information about Mackenzie's ETFs, please contact your financial advisor or visit

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