

DRAFT

February, 2018

Dear Client:

### **FILING YOUR 2017 U.S. TAX RETURN**

The 2017 U.S. tax return for an individual; Form 1040 is due on April 17<sup>th</sup>, 2018. However, if a U.S. tax person is out of the U.S. on April 17<sup>th</sup>, the filing due date is automatically extended to June 15<sup>th</sup>. The extension allowed is for the filing of the tax return but does not extend the payment due date. Because of changes in tax laws and the ever-increasing complexity in preparing personal tax returns, we encourage you to gather your required tax information as soon as possible.

Although we can obtain most of the required information from your Canadian tax return, we will also need the following information to complete the additional forms required by the IRS:

#### **1. Foreign Bank Account Reporting – FBAR (Form FinCEN 114 formerly known as TDF 90-22.1)**

This form is used to report a financial interest in, signature authority or other authority over one or more financial accounts in foreign countries. No report is required if the aggregate value of the accounts did not exceed U.S. \$10,000 at any time during the year.

All Canadian accounts are considered foreign bank accounts for U.S. tax reporting purposes. They comprise both registered and non-registered accounts and include chequing accounts, savings accounts, investment accounts, RRSPs, RESPs, and TFSA's.

This form must be filed electronically. We will do this form for you and will need following information to complete the form:

- Name(s) of account holder
- Name of the financial institution
- Account number
- Mailing address of the financial institution
- Maximum value of the account (in U.S. dollars) during the year

## **2. Statement of Specified Foreign Financial Assets – Form 8938**

You must file Form 8938 with your income tax return if you satisfy the reporting thresholds discussed below: Thresholds are different for U.S. citizens living in U.S. and U.S. citizens living abroad. Below are the thresholds for U.S. citizens living abroad:

***Unmarried taxpayers.*** If you are not married, you satisfy the reporting threshold if the total value of your specified foreign financial assets is more than U.S. \$200,000 on the last day of the tax year or more than U.S. \$300,000 at any time during the tax year.

***Married taxpayers filing a joint income tax return.*** If you are married and you and your spouse file a joint income tax return, you satisfy the reporting threshold if the total value of your specified foreign financial assets is more than U.S. \$400,000 on the last day of the tax year or more than U.S. \$600,000 at any time during the tax year.

***Married taxpayers filing separate income tax returns.*** If you are married and file a separate income tax return from your spouse, you satisfy the reporting threshold if the total value of your specified foreign financial assets is more than U.S. \$200,000 on the last day of the tax year or more than U.S. \$300,000 at any time during the tax year.

All Canadian accounts are considered foreign bank accounts for U.S. tax reporting purposes. They comprise both registered and non-registered accounts and include chequing accounts, savings accounts, investment accounts, RRSPs, RESPs, and TFSAs.

## **3. Information Return of U.S. Persons With Respect To Certain Foreign Corporations**

If you are a shareholder, director or officer of a Canadian corporation, please let us know immediately as additional reporting may be required.

## **4. Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts**

If during the year you have transactions with a foreign trust (a Canadian trust is considered a foreign trust for U.S. tax reporting), please let us know as additional reporting may be required.

## **5. Canadian Mutual Funds:**

The IRS classifies Canadian mutual funds as corporations for U.S. tax purposes. For Canadian residents who are U.S. citizens, the benefits from investment may be mitigated by increased U.S. tax compliance and possibly U.S. tax liabilities. The best strategy may be to avoid investing in Canadian mutual funds.

**6. Net Investment Tax - commonly known as the Obama Care tax (NIT):**

The NIT applies to a U.S. taxpayer whose modified adjusted gross income (MAGI) is at least U.S. \$200,000 (a single filer), U.S. \$250,000 (joint filers) and US \$125,000 (married filing separately). The taxable amount is the lesser of (1) the excess MAGI over the taxpayer's threshold and (2) the taxpayer's net investment income, which includes interest, dividends, capital gains, rental and royalty income, income from business involved in trading financial instruments or commodities, and income from businesses that are passive activities to the taxpayer (Code section 469).

Beginning with 2013 tax filings, many Canadian-resident U.S. taxpayers who historically paid little or no U.S. tax may find themselves with a U.S. tax liability.

**7. Tax Free Savings Account – TFSA and Registered Education Savings Plan - RESP:**

For Canadian residents who are U.S. citizens, the Canadian benefits from TFSAs and RESPs may be mitigated by increased U.S. tax compliance and possibly U.S. tax liabilities. The best strategy may be to avoid these plans or, in the case of an RESP, to have the contributor be a non-U.S. citizen (perhaps the spouse).

**8. Sale of home:**

If you have a gain from the sale of your home, you may qualify to exclude up to \$250,000 of that gain from your income. You may qualify to exclude up to \$500,000 of that gain if you file a joint return with your Spouse.

In general, to qualify for the exclusion you must meet both the ownership test and the use test. You are eligible for the exclusion if you have owned and used your home as your main home for a period aggregating at least two years out of the five years prior to its date of sale.

We look forward to hearing from you early in the tax season!

Yours very truly,

LIPTON LLP - CHARTERED ACCOUNTANTS