

International Transfers

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International Foundation 
OF EMPLOYEE BENEFIT PLANS

Agenda

1. Background: Transfer of a U.S. Employee to Canada
2. Tax Issues
3. Social Security Integration
4. Treatment of Pension and Non-Pension Benefits
5. Integration Considerations
6. Cross-border Remote Work
7. Final Points—A Summary

Background: Focus of Presentation

- Canadian (not U.S.) perspective on pensions, benefits and compensation issues
- Focus on U.S. to Canada employee transfers
- Immigration and employment issues beyond the scope of session

Mobility Trends: Employer Perspective

- 2025 Canadian Employee Relocation Council (CERC) Employee Relocation Policy Survey
 - 38% of organizations expect to see an increase in permanent employee transfers between Canada and the U.S.
 - Canada-U.S. temporary assignment mobility demand remains healthy
 - Immigration and visa, tax complexity and housing are cited as most challenging issues

Mobility Trends: Relocation Incentives

- 2025 CERC Employee Relocation Policy Survey
 - Housing assistance/support provided by the employer
 - Employer-paid travel to visit family and friends back home
 - Flexible work arrangements, including hybrid and remote-work options
 - Greater assurances that reduce the personal risk of relocation

Threshold Issues

- Duration of transfer/assignment
 - Long-term work assignment or permanent transfer
 - Short-term work assignment (less than five years)
 - Commuting arrangement
- Residency status
 - Canadian or U.S. Resident

Tax Issues: Canada-U.S. Tax Comparisons

Canada	USA
Income Tax Act (ITA)	Internal Revenue Code (IRC)
Canada Revenue Agency	Internal Revenue Service
Income tax based on residency	Income tax based on residency and citizenship
Tax on worldwide income	Tax on worldwide income
Personal federal income tax and provincial income tax generally higher	Personal federal income tax and state tax generally lower

Tax Issues: U.S. Employee Not Resident in Canada

- Employee working in, but not resident in, Canada generally subject to Canadian income tax on Canadian source income only
- Application of Canada-US Income Tax Convention
 - Regulation 102 waiver

Tax Issues: U.S. Employee Resident in Canada

- Employee working and residing in Canada generally subject to Canadian income tax on world-wide income
- Canadian residency tests
- Tax consequences of ceasing to be a Canadian resident

Social Security Integration

- Social Security: Canada
- Social Security: U.S.
- Social Security Agreement

Social Security: Canada

- In Canada, social security is provided through Canada Pension Plan (CPP) and Old Age Security (OAS)
 - CPP operates throughout Canada, except in Québec where there is parallel Québec Pension Plan (QPP)
 - CPP/QPP is financed by employer and employee contributions
 - OAS is administered by federal government and funded through taxes

Social Security: U.S.

- Old-age, survivor and disability insurance program
- CPP premiums lower than U.S. social security tax rates
- Social security benefits generally higher in U.S. than in Canada

Social Security Agreement

- Social Security Agreement between Canada and the U.S. effective August 1, 1984
- Improves social security protection for people who work or have worked in both countries
- Eliminates situations of double contributing and avoids interruptions of coverage

Social Security Agreement

- Generally, U.S. employees covered by U.S. Social Security and Canadian employees covered by CPP/QPP
- Exception: Employees transferred to work in other country for same or affiliated employer for five years or less
 - Such employees continue to be covered by home country plan and are exempt from coverage of host country
 - Certificate of coverage issued by home country

Treatment of Pension Benefits

- Canada-U.S. Tax Treaty
 - Fifth Protocol signed in 2007; pension provisions effective January 1, 2009
 - Definitions of “pensions” and “qualifying retirement plan”
 - Provisions regarding cross-border pension contributions and benefit accruals

Tax Treaty: Definition of Pensions

- Definition of “pensions”:
 - “Pensions” includes any payment under a superannuation, pension or other retirement arrangement, Armed Forces retirement pay, war veterans’ pensions and allowances and amounts paid under a sickness, accident or disability plan, but does not include payments under an income-averaging annuity contract
 - “Pensions” also includes Roth IRAs

Tax Treaty: Qualifying Retirement Plans

- Deductions and tax relief available for pensions that are “qualifying retirement plans” (QRPs)
- In Canada, QRPs include registered pension plans, Group RRSPs and deferred profit-sharing plans
- In U.S., QRPs include qualified plans under 401(a), 401(k) plans, simplified employee pensions under 408(k) and Roth IRAs

Tax Treaty: Short-Term Assignments

- Provided certain requirements are met, employees on short-term work assignments can deduct QRP contributions to home country plan from host country income
- Employer can also deduct employer QRP contributions when computing host country profits

Tax Treaty: Short-Term Assignments

- Deduction available if:
 - Income received is taxable by host country
 - Employee participated in home country plan immediately before assignment
 - Employee not a resident of host country immediately before assignment
 - Short-term assignment of no more than 60 of the previous 120 months (*i.e.*, less than five years)
 - Services provided to the same or related employer

Tax Treaty: Short-Term Assignments

- Deduction limited to service in the host country
- No double dipping (*i.e.*, cannot accrue benefits in host country plan while accruing benefits in home country plan)
- Deduction subject to tax limits of home country

Tax Treaty: Commuters

- Employee can deduct QRP contributions to services country pension plan from residence country income
 - *e.g.*, employee lives in Detroit and commutes to work in Windsor and participates in Windsor pension plan; employee can deduct contributions to Windsor pension plan from U.S. income

Tax Treaty: Commuters

- Deduction available if:
 - Remuneration for services taxable in services country
 - Employer is resident in services country or has a permanent establishment in services country
- Subject to tax limits of residence country

Tax Treaty: U.S. Citizens Resident in Canada

- Provided certain requirements are met, U.S. citizens resident and employed in Canada can deduct contributions to Canadian QRP when computing U.S. taxes
- Deduction limited to lesser of: (i) amount of tax relief allowed on the contributions in Canada and (ii) amount of tax relief allowed by the U.S. to its residents under a generally corresponding U.S. plan

Tax Treaty: U.S. Citizens Resident in Canada

- Deduction available if:
 - Income received is taxable in Canada
 - Employer is resident in Canada or has permanent establishment in Canada
 - Contributions and benefits are attributable to services in Canada

Treatment of Non-Pension Benefits: Stock Options

- Canada-U.S. Tax Treaty clarifies rules regarding treatment of stock options
- Income derived from stock options granted in one country and exercised in another country (with same or related employer) is apportioned between the countries

Treatment of Non-Pension Benefits: Stock Options

- Apportionment based on days of employment
- Example:
 - Employee works in U.S. for three years, earns stock options, subsequently transfers employment to Canada with same employer for one year before exercising options
 - 3/4 of exercised options will be U.S. income and 1/4 will be Canadian income

Treatment of Non-Pension Benefits: Health Care

- In Canada, residents have access to public health insurance plans administered by the provinces and territories
 - Funded through taxes and mandatory premiums in some provinces
 - Residency requirements for eligibility
 - Covers basic services such as primary care physicians and hospital care

Treatment of Non-Pension Benefits: Group Benefits

- Most employers in Canada provide extended health coverage such as prescription drugs, extended hospital coverage, out-of-country health coverage and dental care
- Employers may also provide disability insurance, accident insurance and critical illness insurance (critical illness insurance is less commonly provided)

Treatment of Non-Pension Benefits: Group Benefits

- Employee group benefits are less regulated in Canada
- Employers may be able to maintain similar group benefits coverage (*e.g.*, disability, accident, extended health) in Canada and the U.S.
 - Many providers now offering international/global benefit plans

Integration Considerations

- Same or different benefits in U.S./Canada?
- If different, how can employer compensate employee?
 - *e.g.*, provide additional pay, cost of living adjustments, tax equalization payments or general allowances to cover cost differences between home and host countries
- Are there any restrictions on coverage?

Cross-Border Remote Work

- Income earned from employment services rendered in Canada (even though remote work)
- Similar issues to those for U.S. resident employee physically working in Canada
 - Tax Considerations
 - Social Security Integration
 - Pension and Non-Pension Benefits
- Non-legal issues

Cross-Border Remote Work

Risk Matrix

Area	Employee Impact	Employer Impact
Income Tax	Foreign tax filing	Payroll withholding
Social Security	CPP/QPP or U.S. Social Security	Compliance reporting
Pension	Contribution deductibility	Plan administration
Benefits	Coverage gaps	Plan eligibility
Employment Law	Provincial/State rights	Employment standards compliance
Corporate Tax	None	Permanent establishment risk

Case Scenario

- Consider the cross-border issues in this scenario:

Sarah works for XYZ Corporation, a U.S. company, at its head office location in Buffalo, New York. XYZ Corporation is expanding its business and plans to add a small office in Niagara Falls, Ontario. Sarah has been asked to lead the expansion project in Canada for the next few months and possibly years, until the Niagara Falls office is "up and running". Sarah currently participates in the U.S. XYZ Corporation pension plan and U.S. group benefits plan

Key Takeaways

- Determine the length of assignment
- Determine who will be the employer
- Understand impact of tax treaties
- Consider maintaining similar pension and benefit arrangements in both countries
 - If not possible, consider how to compensate the employee
- Document the promise
- Establish mobility policies

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Session Evaluation



Cross-Border Employment Checklist for Employee “Sarah”

Income Tax

- ☐ Determine if Sarah will be considered a Canadian tax resident.
- ☐ Assess eligibility for Regulation 102 Waiver under the Canada-U.S. Tax Treaty.
- ☐ Ensure continued U.S. federal tax filing for worldwide income.
- ☐ Evaluate need for Canadian tax filing based on duration and nature of work.
- ☐ Apply for Foreign Tax Credit (FTC) or Foreign Earned Income Exclusion (FEIE) to avoid double taxation.
- ☐ File Form 8833 to claim treaty benefits (if applicable).

Retirement Benefits

- ☐ Confirm continued participation in U.S. XYZ Corporation pension plan.
- ☐ Review Canadian tax treatment of U.S. pension contributions.
- ☐ Request a Certificate of Coverage under the U.S.-Canada Totalization Agreement to avoid CPP contributions.
- ☐ Evaluate long-term impact on Social Security eligibility in both countries.

Health Insurance

- ☐ Check if U.S. group health plan covers services in Canada.
- ☐ Consider supplemental international health insurance.
- ☐ Assess eligibility for Canadian provincial health coverage if residency status changes.
- ☐ Ensure compliance with Canadian employment standards for benefits.

Legal & Administrative

- ☐ Confirm work permit requirements for Sarah in Canada.
- ☐ Determine if XYZ Corporation must register as a non-resident employer with the CRA.
- ☐ Review payroll obligations and withholding requirements in Canada.
- ☐ Monitor FBAR/FATCA reporting if Sarah opens Canadian financial accounts.