Canadian tax issues for individuals in Hong Kong

An advantage to Canadians living and working in Hong Kong is that Hong Kong's income taxes are lower than Canada's. However, individuals must review their overall situations to become non-residents for Canadian income tax purposes. This article answers some commonly asked questions in this area.

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Hong Kong residents who own Canadian real estate.

What is the difference between being a Canadian resident and a non-resident for income tax purposes?

A Canadian resident is taxed on his or her worldwide income. For instance, interest from a Hong Kong bank account would be subject to Canadian tax when earned by a Canadian resident. A non-resident, on the other hand, is only subject to Canadian income tax on certain Canadian-source income.

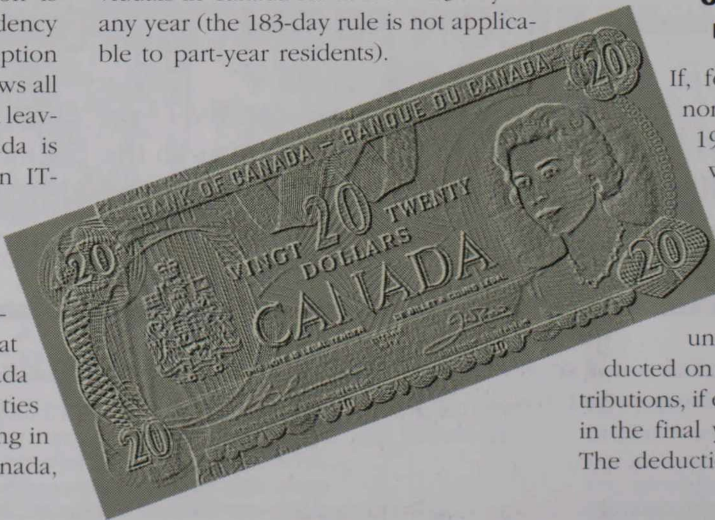
I moved from Canada to Hong Kong. Do I qualify as a non-resident of Canada?

It depends on each individual's situation. Revenue Canada's administrative policy is that if an individual is absent from Canada for 24 months or less, that person is presumed to retain Canadian residency status while abroad. This presumption can be rebutted if the individual shows all residential ties have been severed on leaving Canada and a return to Canada is unforeseen (Interpretation Bulletin IT-221R2).

Conversely, if an individual is away for more than 24 months, he or she is presumed to become a non-resident on leaving Canada, provided that significant residential ties with Canada have not been maintained. These ties include spouse and dependents living in Canada, personal residence in Canada, personal property and social ties in Canada and regular trips to Canada.

A person trying to establish Canadian non-residency should ensure that he or she becomes a resident in Hong Kong, the family lives in Hong Kong and any Canadian residential property is sold or rented on an arm's length basis. In addition, Canadian provincial medical coverage should be terminated and Canadian bank accounts and credit cards should be cancelled. Occasional return trips to Canada and the retention of a bank account for a rental property are likely not detrimental factors.

Some individuals have no choice about residency status. Automatic residents include Canadian government employees (if resident at time of hire), spouses of government employees (if the spouse was previously a Canadian resident) and individuals in Canada for at least 183 days in any year (the 183-day rule is not applicable to part-year residents).



I became a non-resident on September 30, 1993. When do I file my 1993 Canadian income tax return?

This part year Canadian income tax return is due by the normal filing date of April 30, 1994. The identification box on the first page of the standard individual income tax return has a space to insert the date residency ceased. This is really the only required procedure for notifying Revenue Canada that you have become a non-resident.

Form NR73 can be submitted to Revenue Canada to obtain, in advance, their views on whether you became a non-resident. This questionnaire is optional and is non-binding on Revenue Canada.

What income is included on this part-year resident return?

If, for example, you became a non-resident on September 30, 1993 your 1993 tax return would include worldwide income earned until September 30, 1993.

An eligible RRSP contribution could still be made until March 1, 1994 and be deducted on the 1993 return. RRSP contributions, if eligible, are usually advisable in the final year of Canadian residency. The deduction would likely create in-