

INITIATIVE

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U.S. Reporting of Canadian RRSPs and RRIFs

You have a client living in Canada, who is a U.S. person for income tax purposes. The client has an RRSP (Registered Retirement Savings Plan) and is concerned about all of the mandatory reporting of financial holdings to U.S. authorities. What are the latest rules with respect to registered plans?

U.S. persons are allowed to defer tax on income accruing in their RRSP or RRIF until it is distributed, under a provision in the Canada-U.S. tax treaty. To benefit from the deferral, these U.S. taxpayers had to complete Form 8891 and attach it to their U.S. return, electing to take the tax treaty benefit. The reporting included details about each RRSP and RRIF, even if these people didn't take the election. Absent this provision, income earned annually from these plans would be taxable under the U.S. income tax system, whether or not the income was distributed.

The Internal Revenue Service (IRS) announced some welcome relief on Oct. 7, 2014. Canadian residents who are deemed to be U.S. persons for income tax purposes because of citizenship, hold Green cards and/or spend the majority of their time in the USA, will now enjoy U.S. federal tax deferral on their RRSPs and RRIFs automatically, without having to file special forms each year with the IRS. The new reporting rules also eliminate the need to report annual contributions, growth and distributions on that same Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans. The U.S. tax authority announced that; "the IRS is eliminating Form 8891, and taxpayers are no longer required to file this form for any year, past or present." That's right; the IRS even provided retroactive relief for those who failed to make the requisite election in the past. This announcement provides relief from assessments and penalties for non-filers of these forms. They won't have to enter the Offshore Voluntary Disclosure Program for these matters. Affected individuals do need to include the amount of any actual distributions on their U.S. tax returns.

The change in administrative procedure for Americans and U.S. persons in Canada who own RRSPs and RRIFs does not change the requirement for these people who meet certain asset thresholds, to report on any foreign bank account they hold with a Fin CEN Form 114, formerly known as the Report of Foreign Bank and Financial Accounts (FBARs), or on any specified foreign assets with a Form 8983 to comply with FATCA. Failure to file these forms on time and in good order can trigger substantial fines and potential prosecution.

The new rules provide a little less duplication with a welcome relief in time, effort and cost.

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