TAX PLANNING FOR CANADIANS PURCHASING PROPERTY IN FLORIDA
By: Michael J. Wilson and Heather A. Cooper

Canadians have long been active in Florida real estate. Whether owning a vacation home or an investment property, Canadians make up a significant number of purchasers of Florida real property. The recent fluctuations in the housing market have only made the Florida market more desirable to our neighbors to the north. Regrettably, many Canadians enter the Florida market without sufficiently considering the tax ramifications arising from the ownership of U.S. real property. Differences between the U.S. and Canadian tax systems require careful planning prior to entering the market to ensure that the best tax planning strategies are used for each purchaser's particular circumstances. For Canadians already in the Florida market, decreased property values make this an ideal time to restructure ownership plans to avoid a surprise tax bill in the future. But the window for planning may soon close as property values continue to increase. This article discusses the U.S. tax issues and planning techniques that can help minimize tax headaches for Canadian owners of Florida real property.

Ultimately, the appropriate tax planning will depend on the needs of each investor: whether the property will be held for personal use versus income production; whether it will be held for short or long term; whether the owner intends to sell the property or pass the property on to heirs; and the investor's tolerance for increasingly complex and administratively burdensome multi-tiered structures.

The content of this article is aimed at Canadian individuals, and does not apply to U.S. citizens, "Green Card" holders or permanent residents, or others who are taxed as U.S. residents. This article only briefly touches on Canadian tax planning considerations. However, we are not Canadian tax law advisors and any tax planning should be reviewed by a Canadian tax advisor. Accordingly, this article is not intended to provide advice with respect to Canadian tax law.

Overview

There are several important tax issues that merit consideration for Canadians entering the Florida real estate market. The first half of this article outlines these issues alongside the general structure of the U.S. tax system. In the second half of this article, we describe the significance of all of these issues under various real property holding structures.

General Structure of the U.S. Tax Regime

U.S. tax residents are taxed on their worldwide income.[1] Non-U.S. tax residents are only required to report and pay tax on their income that is sourced to the United States.[2] Income of U.S. individuals may be either ordinary (taxed at graduated rates up to 39.6%) or capital (taxed at rates up to 20%).[3]

A Canadian can become a U.S. tax resident if they obtain U.S. citizenship, become a lawful permanent resident (*i.e.,* green card holder), or satisfy the "substantial presence" test, which looks at

---

[1] IRC § 61.
[2] IRC § 872.
[3] IRC § 1. This 20% rate does not include potential application of the additional 3.8% Medicare Surtax to U.S. tax residents. This 3.8% tax is not applicable to non-U.S. tax residents.

the number of days spent in the United States.[4] The substantial presence test can be a trap for the unwary that spend too much time in the United States.[5] If a Canadian becomes a U.S. tax resident, they will have the same tax obligations as any U.S. person (including the requirement to file an annual tax return with the IRS reporting all worldwide income). Therefore, Canadians generally want to ensure that they do not become U.S. tax residents. The discussion in this article does not apply to Canadians who have become U.S. residents.

The U.S. income tax regime taxes non-resident persons under two prongs: First, if income is from a "U.S. trade or business," the net income from such trade or business is taxed at the U.S. regular graduated tax rates (currently, up to 39.6%).[6] Whether an activity rises to the level of a trade or business is a factual determination, but a single transaction does not generally meet the threshold. The trade or business tax applies to the net income of the foreign investor from the U.S. trade or business, after the application of any available deductions.[7] Second, if income is passive (that is, not from a U.S. trade or business), and sourced to the United States, such income is subject to a 30% flat withholding tax.[8] The 30% tax is generally withheld by the payor. No deductions are available to offset the 30% flat withholding tax.[9] Capital gains are taxed to individuals at rates up to 20% where certain holding requirements are met.[10] Corporations are taxed at graduated rates up to 35%, and do not enjoy a reduced capital gains tax rate.[11]

The Canada-U.S. Income Tax Treaty (the "Treaty") helps to mitigate double-taxation by the two countries. A tax treaty is a written agreement generally providing tax rules that are intended to avoid the same income being taxed in both countries. If there is no relief available under the Treaty, both Canada and the United States generally offer some relief in the form of tax credits for foreign taxes paid.

Rental Income

Some foreign owners of U.S. property may choose to rent out their property for part or all of the year. Rental income from U.S. property is generally sourced to the United States, and the income must be reported to the IRS by the recipient.[12] Assuming the rental property is held on a passive basis (that is, the foreign owner is not actively involved in managing the property), rental income paid to a foreign owner is subject to a 30% flat withholding tax, unless the foreign owner makes an election to be engaged in a U.S. trade or business with respect to its rental real estate.[13] If the owner is involved in managing the property, the rental income may be deemed to arise from a U.S. trade or business and graduated tax rates would apply, subject to expense deductions.[14] The Treaty does not

[4] IRC § 7701(b).
[5] A discussion of the substantial presence test is beyond the scope of this article.
[6] IRC § 871(b).
[7] IRC § 873(a).
[8] IRC § 871(a).
[9] IRC § 873(a).
[10] IRC § 1(h).
[11] IRC § 11.
[12] IRC § 861(a)(4).
[13] IRC §§ 871(a)(1)(A) and 881(a)(1). The election can be made only in a year in which the investor has income from U.S. real estate, and applies to all properties (*i.e.,* it cannot be made on a property-by-property basis). IRC §§ 871(d) and 882(d).
[14] IRC §§ 871(b) and 882. The tax consequences of actively managing a rental property are beyond the scope of this article.

provide any relief against double taxation of rental income. This means that the rental income may be taxable in Canada, even if tax was already paid on the income in the United States (although Canadian law may provide a tax credit for foreign taxes paid in the United States).

If the property is owned by a legal entity, such as a corporation, partnership, or limited liability company, and is used personally by the owner of the entity, then the entity may be required to charge a fair market rent to the owner. If such rent is not charged, the IRS may impute a fair market rent which will be taxable.

Taxation of Gain From Selling the Property

Like rental income, income from the disposition of U.S. real property by a foreign person is sourced to the U.S. and must be reported to the IRS by the recipient.[15] Unlike rental income, disposition income is treated as though from a U.S. trade or business and may qualify for the lower capital gains (currently, up to 20%) if held for more than one year.[16] Additional tax may apply on recapture income if depreciated property is sold at a gain.[17] There is no exemption for income from real property dispositions under the Treaty. This means that the income on disposition may be taxable in Canada, even if tax was paid on the income in the United States (although Canadian law may provide a tax credit for foreign taxes paid in the United States).

Income from the disposition of real property by a foreign owner is subject to the "Foreign Investment in Real Property Tax Act" ("FIRPTA"), which requires tax withholding by the buyer at the time of sale.[18] The FIRPTA rules may also apply when interests in a property-holding entity are sold by its foreign owners -- even if the real property is not directly sold. Under the FIRPTA rules, the buyer is generally required to withhold 10% of the sale price at the time of the sale. The foreign seller is then required to file an annual tax return with the IRS and calculate the actual tax due on the gain (calculated using the applicable graduated tax rates). The foreign person is required to pay any additional tax due or may be eligible for a tax refund to the extent the withheld amount is more than the tax due. There are several exceptions and modifications to the FIRTPA rules that may apply in the case of Canadian investors.[19]

Estate Tax

At a rate of 40%, the U.S. estate tax regime should be a significant consideration for Canadian investors. [20] This regime differs considerably from the Canadian system and often catches Canadian investors by surprise.

---

[15] IRC § 861(a)(5).
[16] IRC § 897.
[17] IRC § 1(h)(1)(E).
[18] IRC § 1445.
[19] The FIRPTA exceptions that may be relevant to foreign investors are: (1) the buyer acquires the property for use as a home and the sale price is not more than $300,000; (2) there is no gain or loss on the property by the application of a nonrecognition provision under U.S. tax law (such as IRC § 1031 tax deferred exchange) or under the Treaty; (3) the amount realized on the property is zero; or (4) the IRS issues a certificate excusing withholding. A withholding certificate may be issued by the IRS if (a) the amount to be withheld would be more than the seller's maximum tax liability; (b) the transfer is exempt from tax; or (c) the buyer and seller have entered into an agreement for the payment of tax providing security for the tax liability. The requirements to fulfill any exception are beyond the scope of this article.
[20] IRC § 2001(c).

The U.S. estate tax is an entirely separate tax from the U.S. income tax, and applies to the worldwide estate of U.S. tax residents (subject to certain exemptions). Foreign persons are subject to the U.S. estate tax only to the extent of property physically situated in the United States.[21]

The estate tax applies to foreigners much the same as it does to U.S. persons, but with some detrimental modifications. The most significant difference is that a U.S. person is currently entitled to a $5.34 million unified estate and gift tax exemption (meaning, U.S. persons can make up to $5.34 million in lifetime gifts plus estate transfers before triggering tax), and an unlimited marital deduction for transfers to a U.S. spouse (meaning, U.S. persons can make unlimited gifts and estate transfers to their spouse without triggering tax).[22] The unified tax exemption is adjusted annually for inflation.

Foreign persons do not enjoy these same considerable benefits. Instead, foreign persons are limited to a $13,000 unified tax credit and no marital exemption for transfers to spouses.[23] This means that (in the absence of proper planning), if a foreign person owns U.S. real estate at the time of their death, the sting of the estate tax may apply to most of the value of their U.S. property. Compare this with U.S. persons owning real property, who may escape the estate tax entirely (if their estate and previous gifts total less than $5.34 million).

The Treaty provides some relief to Canadians from the U.S. estate tax rules that otherwise apply to foreigners. Under the Treaty, Canadians are entitled to a pro-rata portion of the estate tax exemption available to U.S. tax residents (currently at $5.34 million).[24] The pro rata portion is based on the value of the deceased Canadian's U.S. estate relative to the value of the individual's worldwide estate. In addition, the Treaty allows tax-free transfers to a surviving spouse.[25]

The estate tax has been the target of much legislative activity, and as such, the threat of major changes always looms. There is no telling what exemption amount or tax rate will apply in the unknown future. In the last 15 years, the rate applicable to U.S. persons has been as high as 55% and as low as 35% (and prior to retroactive legislation, was reduced to 0% in 2010!), with exemption amounts dipping as low as around $700,000. Non-residents are in the lucky position that, with proper planning, they can structure their assets so that they fall entirely outside the scope of the U.S. estate tax. This means that they do not need to be worried about future fluctuations in the applicable tax rate or exclusion amount (at least for so long as the estate tax system exists in its current form).

Tax and Other Filing Requirements

Foreign purchasers should also consider the administrative requirements related to owning U.S. property. Not only will complex holding structures lead to more complicated tax filing requirements, but these complex structures will involve more non-tax administrative requirements, such as corporate maintenance filings and annual registration fees.

---

[21] IRC § 2103.
[22] IRC § 2010.
[23] IRC § 2102(b).
[24] Treaty, Article XXIXB(2).
[25] Treaty, Article XXIXB(3).

Florida State and Local Taxes

Florida has no state individual income tax, but there is a state corporate income tax (which is levied in addition to the federal corporate income tax). The Florida corporate income tax rate is 5.5%.[26] Sales tax applies to rental income from commercial leases, as well as residential property leased for six months or less per year.[27] The sales tax rate is 6% plus applicable county-level taxes. Some counties apply additional tourist development and similar taxes on rental income. As a result of the combined state and local sales taxes plus tourist development taxes, rental income may be subject to 12% tax[28] or more in some counties. Other non-federal taxes may apply in Florida to foreign owners of real property, including local property taxes.

Choice of Holding Structure

There are various structures for investing in U.S. real estate, and each structure has its own advantages and disadvantages. Below is a summary of the most common structures and their respective advantages and disadvantages.

1. Direct Ownership

This is the simplest ownership structure, and requires the least planning. Direct ownership is when one or more individuals own title to the property in their own name (as opposed to through an entity). The income from real property flows directly to the owner under this structure. Individual foreign owners are directly taxable on the rental income at a flat rate of 30%. This amount is nonrefundable. Alternatively, the foreign owner could elect to be taxed on a net basis, in which case graduated income tax rates will apply (up to 39.6%).[29] Foreign direct owners are also directly taxable on income from any gain on sale, at graduated ordinary income tax rates (up to 39.6%) or possibly at the lower capital gains rate (up to 20%). FIRPTA also applies on the disposition of the real property, which requires the buyer to withhold and remit to the IRS 10% of the sale price (which may be refundable, depending on the tax due on the gain, if any).

The Canadian owner may be required to file an individual income tax return with the IRS reporting income from the property. For a variety of privacy reasons, many people prefer to report this income on the tax return of a separate entity rather than on an individual tax return, which makes direct ownership less desirable.

Most significantly, direct ownership has considerable adverse U.S. estate tax consequences since the property will be captured by the estate tax regime upon the owner's death. The property will be subject to the 40% estate tax subject to, under the Treaty, a pro-rata portion of the unified tax exemption. Even if estate tax liability is mitigated under the Treaty, the owner may still have burdensome administrative filing requirements at the time of death. The upside is that the property's tax basis will be stepped up upon the owner's death, so that the heir will have a higher tax basis in the property for income tax purposes going forward.

---

[26] Fla. Stat. § 220.11.
[27] Fla. Stat. § 212.03(1)(a); Fla. Stat. § 212.031.
[28] *e.g.*, Sarasota County.
[29] IRC § 871(d).

Direct ownership of the property also means that the individual owner will have personal liability for liabilities and claims associated with the property. These claims could include claims by persons injured while on the property.

Direct Ownership Planning Highlights:

- Simplest structure
- Rental income: 30% flat withholding tax unless net basis election
- Disposition income: may be eligible for 20% capital gains tax; otherwise, taxed up to 39.6%
- FIRPTA withholding applies on disposition
- Foreign owner must file U.S. tax return reporting any income
- Estate tax applies
- No limited liability

2. Ownership Through U.S. Partnership

Partnerships are treated as pass-through entities for U.S. tax purposes. As such, the U.S. tax consequences of owning property through a partnership are generally the same as if it were owned directly by the foreign individual.[30] In other words, rental income is subject to the 30% flat nonrefundable tax (unless a net basis election is made) and income from the sale of the property may enjoy the lower capital gains tax rate (up to 20%). The sale of the property will also be subject to FIRPTA withholding, at a rate of 35% of the foreign partner's share of the gain.[31] FIRTPA withholding may also apply at a rate of 10% if the owner sells the interests in the partnership, rather than selling the real property directly.[32]

Both the individual and the partnership are required to file annual income tax returns in any year there is income to the partnership. There are also Florida annual filing requirements.

The estate tax implications of ownership through a partnership are somewhat uncertain. U.S. tax law fails to address whether certain forms of intangible property -- including interests in partnerships -- are included in the U.S. estate of foreign persons for purposes of calculating the estate tax. If partnership interests are included in the foreign person's estate, then the value of the real property would be subject to the estate tax regime at the time of the owner's death. Where the property is personal use and not used as a rental, most practitioners believe that it would be an overreach to include partnership interests in the U.S. estate of foreign persons. But there is no certainty on the issue. Accordingly, there is risk to owning property through a partnership vis a vis avoiding the U.S. estate tax.

Despite the risks, for foreign investors looking for a simple entity ownership strategy, a partnership is usually the most favorable planning structure because it avoids the double-taxation pitfalls of corporate structures and may also avoid U.S. estate tax. If properly structured and maintained, a partnership will insulate its partners from liabilities and claims associated with the property (discussed below).

U.S. Partnership Planning Highlights:

---

[30] IRC § 875.
[31] IRC § 1445(e)(1).
[32] IRC § 1445(e)(5); IRC § 897(g).

- More administrative requirements than direct ownership
- Rental income: 30% flat withholding tax
- Disposition income: may be eligible for 20% capital gains tax; otherwise, taxed up to 39.6%
- FIRPTA withholding applies on sale of property or on sale of partnership interests
- Foreign owner and U.S. partnership have annual tax filing obligations
- Estate tax likely does not apply

3. Ownership Through U.S. Limited Liability Company

Under U.S. tax law, a limited liability company ("LLC") can elect to be taxed as either a corporation or a partnership, unless the LLC has one owner, in which case, it can elect to be taxed as a corporation or is treated as a disregarded entity. If an LLC is treated as a disregarded entity, then the owner of the LLC is treated as directly owning the real property held by the LLC for U.S. income tax purposes.

An LLC taxed as a partnership or treated as a disregarded entity will result in generally the same U.S. income tax results as direct ownership or a partnership. In other words, rental income is subject to the 30% flat tax, and income from selling the property may enjoy the lower capital gains tax rate (up to 20%) but will be subject to FIRPTA withholding. FIRTPA withholding may also apply if the owner sells the interests in the LLC, rather than selling the real property directly.[33]

The estate tax may also apply, either because (i) the LLC has only one owner and is disregarded for tax purposes (see discussion above re: direct ownership), or (ii) because partnership interests may be treated as U.S. situs property (see discussion above re: partnership ownership).

Both the individual and the LLC (unless it's treated as a disregarded entity) may be required to file an annual income tax return in any year where the entity earned income, and the LLC has Florida annual filing requirements (regardless of whether it's treated as a disregarded entity). This structure therefore results in the same tax consequences as direct ownership, but with additional administrative layers. However, a disregarded LLC is superior to direct ownership, because the LLC, if properly structured and maintained, will insulate its owners from liabilities and claims associated with the property.

Perhaps more importantly, there are serious Canadian tax complications arising from the use of a U.S. LLC to hold real property. Although we are not Canadian tax advisors, there is risk that the LLC will be treated as a corporation for Canadian tax purposes, even if the LLC is treated as a partnership or disregarded entity for U.S. tax purposes. This can lead to a mismatch of how the income is treated in Canada compared with how it is treated in the United States, resulting in possible adverse Canadian tax consequences. Thus, the LLC should be avoided for Canadians investing in Florida real estate. However, any tax planning should be reviewed by a Canadian tax advisor.

LLC Planning Highlights:

- More administrative requirements than direct ownership
- Limited liability for owners
- Rental income: 30% flat withholding tax

---

[33] IRC § 1445(e)(5); IRC § 897(g).

- Disposition income: may be eligible for 20% capital gains tax; otherwise, taxed up to 39.6%
- FIRPTA withholding applies on sale of property or on sale of LLC interests
- Estate tax may apply
- Canadian tax planning concerns

4. Ownership Through U.S. Corporation

If real property is held by a U.S. corporation (including an LLC that elects to be taxed as a corporation for U.S. income tax purposes), the corporation will be taxed as a U.S. person. In other words, it is subject to tax on all of its worldwide income, including from the rental and sale of any real property held by it. The corporate tax rate applies at rates up to 35%, and there is no lower rate for capital gains. The corporation must also file an annual income tax return with the IRS, regardless of whether it earned any income in a particular year. The annual return requires information about the foreign owners. In addition to the federal corporate tax, the Florida corporate tax will also apply at a rate of 5.5%.

The corporation will also be subject to state-level non-tax filing corporate maintenance obligations (such as annual reports). The corporation's shareholders will enjoy limited liability and be insulated from liabilities and claims associated with the property.

The biggest disadvantage with ownership through a corporation is that it leads to "double-taxation;" that is, income is taxed when earned by the corporation (subject to federal and Florida income tax) and then taxed a second time when distributed to the foreign shareholders. A distribution to a foreign shareholder is generally subject to a 30% nonrefundable flat withholding tax, although the Treaty reduces the withholding to 15% where the shareholder is an individual.[34] This double-taxation is a significant disadvantage for most investors, so that most foreigners look for another planning strategy.

Although a sale of the property is not directly subject to FIRPTA (because the corporation is not a foreign person), the subsequent distribution to the foreign shareholders is subject to 10% FIRPTA withholding where it represents the sale of underlying real property.[35] A sale of the interests in the corporation will also trigger FIRPTA withholding.[36]

Finally, the value of the shares of the U.S. corporation will be included in the Canadian investor's U.S. estate tax calculation, which is another serious detriment to holding property through a corporate structure.[37]

U.S. Corporation Planning Highlights:

- More administrative requirements than direct ownership
- All income subject to corporate income tax (up to 35%) plus Florida corporate income tax (5.5%)
- Income is "double-taxed" (corporate income tax plus tax upon distribution to shareholders)

[34] Treaty, Article X(2).
[35] IRC § 1445(e)(3).
[36] IRC § 1445(a); IRC § 897(c)(1)(A)(ii).
[37] IRC § 2104(a).

- FIRPTA withholding applies on sale of property (but only when proceeds are distributed to foreign shareholders) or on sale of corporation, but not on direct sale of property
- Corporate tax return required every year
- Estate tax applies

5. Ownership Through Canadian Corporation

If the real property is owned through a Canadian corporation, the corporation will have to file a U.S. annual tax return with the IRS, reporting and paying tax on any rental income (30% flat tax withholding unless a net basis election is made) or sale income from the property (at corporate income tax rates, up to 35%) plus Florida corporate income tax (5.5%). Alternatively, the corporation could elect to treat all its income as effectively connected with a U.S. trade or business, in which case the corporate income tax will apply to both disposition income as well as rental income (up to 35%).[38] A major disadvantage with holding property through a corporation is that a corporation does not enjoy the same lower capital gains rate as individuals on proceeds from a sale of the property.

FIRPTA withholding applies to the sale of the property (at a rate of 35% on the gain, rather than the usual 10% on the amount realized)[39], but does not apply to a sale of the foreign corporate stock.[40] The corporation will have to file an annual tax return, but its foreign owners will not have a separate filing obligation.

In addition, the repatriated income of a foreign corporation is subject to a U.S. branch profits tax (normally 30%, but reduced to 5% under the Treaty).[41] The branch profits tax intends to replicate the double-taxation that hits domestic corporations when making distributions to their shareholders. At least with respect to income from selling the property, this tax can be avoided with proper planning by terminating the corporation's U.S. trade or business at the time of the disposition. The tax cannot generally be avoided on rental income.

Ownership through a foreign corporation does provide one significant advantage in that it will shield the real property from falling into the U.S. estate regime, since the corporate stock is not U.S. situs property. Ownership through a corporation is also advantageous in that it provides limited liability for the foreign owner. This structure also provides anonymity for the foreign owners who usually do not need to be reported to the IRS.

Canadian Corporation Planning Highlights:

- More administrative requirements than direct ownership
- Rental income: 30% flat withholding tax
- Disposition income: subject to corporate income tax (up to 35%) plus Florida corporate income tax (5.5%)
- Income is "double-taxed" (branch profits tax) at 5%
- FIRPTA withholding applies on sale of property at 35% of gain but not on sale of stock
- Estate tax does not apply

[38] IRC § 882(d).
[39] IRC § 1445(e)(2).
[40] IRC § 1445(a).
[41] IRC § 884; Treaty, Article X(6).

6. Ownership Through Canadian Partnership

The tax consequences of using a Canadian partnership are similar to those that arise from holding property through a U.S. partnership (discussed above). The partnership will be treated as a pass-through entity for U.S. tax purposes and the tax obligations will flow through to the individual partners. Rental income is subject to the 30% flat nonrefundable tax and income from the sale of the property may enjoy the lower capital gains tax rate (up to 20%). The sale of the property will also be subject to FIRPTA withholding at a rate of 10% on the purchase price.[42] FIRTPA withholding may also apply if the owner sells the interests in the partnership, rather than selling the real property directly.[43]

Both the individual and the partnership are required to file annual income tax returns. There are also Florida annual filing requirements.

As discussed above, the estate tax implications of ownership through a partnership are somewhat uncertain.

Canadian Partnership Planning Highlights:

- More administrative requirements than direct ownership
- Rental income: 30% flat withholding tax
- Disposition income: may be eligible for 20% capital gains tax; otherwise, taxed up to 39.6%
- FIRPTA applies on sale of property or on sale of partnership interests
- Foreign owner and U.S. partnership have annual tax filing obligations
- Estate tax likely does not apply

7. Ownership Through U.S. Trust

Some investors choose to use a trust structure for owning U.S. real property. Special rules will determine the taxation of the trust and its owners, many of which are beyond the scope of this article. If the trust is a grantor trust (whether foreign or domestic) with a foreign grantor, the tax consequences will generally be identical to direct ownership by a foreign individual. If the trust is a non-grantor irrevocable trust, it is possible to avoid the estate tax on the grantor's death. There may be increased administrative requirements and added costs associated with a trust structure.

Trust Planning Highlights:

- Increased expenses and administrative complexity
- More options for minimizing tax liabilities

8. Multi-tiered Ownership

For a variety of reasons, foreign buyers may choose to invest in U.S. property through a multi-tiered ownership structure. The use of these structures entails increasing complexity, but may satisfy the needs of particular investors. For instance, the investor may want to use a Canadian entity that owns a U.S. property holding company. Even more complex structures can involve third-country holding

---

[42] IRC § 1445(a).
[43] IRC § 1445(e)(5); IRC § 897(g).

companies. These more complex structures may provide benefits to foreign investors, such as avoidance of the estate tax and the branch profits tax, all while providing greater anonymity for the foreign owners. But these multi-tiered structures come with increased expenses for planning, implementation, and administrative oversight. These structures may not be appealing to persons purchasing a single property for personal use, but will make more sense for larger investments with a steady income flow.

Multi-Tiered Structure Planning Highlights:

- Increased administration over multiple entities
- Increased expenses associated with multiple entities
- More options for minimizing tax liabilities

Already in the Market? There are Still Planning Opportunities

There are myriad U.S. tax issues arising from foreign ownership of Florida property. Canadians who are considering entering the U.S. real estate market are strongly urged to enter into careful planning with both a U.S. and Canadian tax advisor prior to purchasing any property, lest they get caught in a web of unexpected tax pitfalls. But even if the foreign person failed to plan ahead and is already in the market, do not fear! There are still planning opportunities to be had. This is especially true with the relatively low property values in much of Florida, which may give foreigner investors a window to restructure their real property investments without any serious tax hits. But as property values continue to move upwards, the time to act is now. Williams Parker has a wealth of experience with foreign clients investing in U.S. property and we would welcome the opportunity to assist you with your tax and business planning needs.