

BERMUDA

Pondstraddlers' Life™

Cross Border

Complexity

18

Scott Stallard PHOTOGRAPHY



# Step Eighteen - Bermuda Pondstraddlers' Life™ Cross Border Challenges

## Cross Border Financial Planning Challenges, Taxation and Compliance

A Pondstraddler is a person with one foot on each shore whose heart resides in both countries.

### Heads Up for Bermuda Pondstraddlers and Their International Connections

Bermuda Residents are Perennial Pondstraddlers, so many of us have International Connections. We have uniquely sophisticated lifestyles

Where are we?

Remote, beautiful, Bermuda Island Living instils independence, determination, and flexibility. Such qualities derived from surviving and thriving on a tiny dot of an extinct volcano fed by the warm Gulf Stream in the middle of the North Atlantic Ocean - the fourth most remote habitat in the world.



### Who are we?

Adventurous and innovative far beyond Bermuda's limited population size, our Bermudian forebears and now contemporaries ventured aggressively into the outer spheres of global commerce for sheer economic survival: pioneer builders of the fast rake-masted, 'Berموode' rig sloop that dominated the sailing world in the seventeenth century; aided large young countries in domestic strife and world wars; established an export food production business to the Eastern seaboard, northward, and south to the Caribbean; then, reinvented ourselves again as a tourist destination and currently, as the premier offshore financial risk centre.

Today, the Modern Bermuda International Finance Centre is the third largest global (Re)insurance capital in the world, along with being the largest captive insurance market, investment funds, maritime shipping industries, fintech, and trust administration in international commerce.

### Why are we Bermuda islanders Perennial Pondstraddlers?

For more than 400 years, Bermuda residents have been habitual border crossers. You can label us "puddle-jumpers" "Pond-straddlers", "nomads," "global explorers" or "inveterate wanderers," but the fact remains that there is no unequivocal choice.

We physically have to leave this dot of a remote island to get to where we want to go. While there may be a few Bermudians who have never left the dear island in their entire lives, we can assume that almost everyone travels elsewhere, building relationships, investments, business and links of all sorts to countries with different regulations and tax regimes.

**And are we connected!**

United States, United Kingdom, Ireland, Canada, Caribbean, Mexico, Brazil, Honduras, Guatemala, Aruba, Germany, France, Italy, Spain, Greece, Australia, New Zealand, Hong Kong, Switzerland, Eastern Europe, Ukraine, Croatia, Philippines, Thailand, Sri Lanka. Can you name more?

**Every border crossing has a consequence.**

Mobility affects one's finances as each country that considers you a resident - if you have stayed there for a legally-defined time period (or overstayed as a "visitor") - wants to tax you for the benefits you are presumed to have received.

Mobility is not limited to physical activity transitions.

Finances of all sorts are incredibly electronically mobile today, too. Open an investment account in your home country; the security assets may be derived from or sited in a second country, while the custodians may be located in third, fourth, and fifth country.

**Other mobile circumstances generate tax accountability.**

Moving abroad for a lengthy career — under Canadian tax regulations, certain of your assets are deemed to have been sold with the tax assessed, then remitted to the government's revenue agency. Leaving a country permanently while also relinquishing US citizenship in the process, could also find you facing a exit tax (if above certain ordained financial / legal /immigration thresholds) computed on phantom sales of your current and future assets (ie pensions, etc) as well as your estate. Multinational families / dual-triple citizens with residences and assets in multiple jurisdictions just added an additional complexity multiplier to the tax equation.

**Every government is eager to collect Taxes from every source for its coffers.**

The United States citizenship-based taxation structure still tends to receive criticism for its world-wide tax and reporting positions. However, in the age of global information exchanges, along with implementation of various cooperative reporting schemes between countries (i.e. FATCA and its emulators, EU Directive, CRS-Common Reporting Standards, etc.), the taxation of non-resident citizens and residents of a country has become more exact, fluid and relentless. Cooperative agreements of various types have given global taxing authorities tremendous jurisdictional reach and ability to monitor, analyse, compare and track the financial lives of their residents and citizens wherever they may be!

The global migration effect on Bermuda islanders and their families.

A local family may have in the past appeared to be purely Bermudian, domestically situated. This family picture is deceiving.

Reality may be far different.



Generations of families have grown, migrated abroad, and returned to Bermuda, changing their entire family structure, irrevocably. The resident Bermuda population then may contain many nationalities, all of whom whether migratory career professionals, finance and risk management executives, hospitality and related service foreigners, local Bermuda families with longevity ties, or migrant construction / agricultural workers have certain ties and provenances to elsewhere.

Domestic families, with hundreds of years old Bermudian family ancestral lineage, now have international relatives, assets, and business interests that need complex legal, tax, immigration, and cross border financial planning.

Families cannot plan complacently as was done in the past if they wish to continue to build, maintain and preserve their global assets for the future.

March 2020 - Update on Bermuda Residents' Relocation to Other Jurisdictions

More frequently now, according to local social media, and anecdotal commentary, individuals and families have already left Bermuda or are contemplating moving to other jurisdictions. While actual relocations numbers are not quantified, a substantive drop in the resident population has been noted by local industries: health-related, retail, entertainment, real estate volumes, insurance, utility and telecommunication usage decreases, grocery consumption, and others - are also affected by COVID safety measures

Globally, people are more mobile than ever before.

Bermuda residents are no exception. One can only speculate on the various reasons for temporary or permanent relocation, such as: schooling, work permit termination, career development, eg. secondment, individual and family opportunities, cost-of- living challenges, and a comfortable retirement.

All relocations, particularly permanent ones, are a wrenching decision process, an emotional, exciting, overwhelming experience for anyone, but particularly for Bermuda residents detaching permanently from generations of left-behind family members, the community they have always known and their beloved island home.

An illustration of a homesick Bermuda islander springs to mind. On one memorable occasion when working at a local Bermuda investment firm, I placed a call inquiry to a United States bank's investment department.

The analyst answering the phone had our distinctive Bermuda accent, we know you can't miss it. Before there was a chance to state the inquiry, he

said: “You’re calling from Bermuda. Oh, my wife and I are Bermudian — we’re here on a three-year secondment. We miss Bermuda so much!”

At that his voice broke as he choked up (this is a true story, no exaggeration). Then, he said: “We get so homesick sometimes that we play recordings of tree frogs after workdays to remind us of home.”

Relocation emotions aside, realistic move planning should be at the forefront.

There are many, many decisions to be made practically, and financially to assure that the family emigration is as stress-free as possible, with the financial planning aspects at the forefront.

Regardless of where (and when) your new lives in a new country will begin, there are numerous primary items that planning a premove will provide a smoother passage.

The alternative of no planning, say, just walking in and overstaying in your new country, has the potential to torpedo any pre-planning protective measures.

### Why?

Let’s say, for example, that a family has decided to emigrate abroad. Their choices are:

- United States,
- Canada,
- or the United Kingdom.

The defining factor for all three countries are significant income tax regimes, administered by each country tax and revenue agencies. Resident individuals are mandated to file and pay tax liabilities on their domestic income as well as, in most instances, on their worldwide income, meaning including income, capital gains, etc. on assets derived from Bermuda.

Understand that this is a very simplistic version of the tax complexity of the three countries mentioned above.

Bermuda does not have an income tax regime, nor do most Bermuda islanders understand other countries’ tax, immigration, and legal responsibilities.

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Further, there are only a very few Bermuda tax treaties for income, estate or gift tax with other countries.

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Oh, yes, Bermuda taxes her residents, more so than ever before, (see Taxation above) but generally, these taxes or stamp duties do not constitute an income tax regime. The closest the Bermuda Government came to that idea was the introduction of a rental income tax, that was not implemented — to the relief of every homeowner relying upon a studio apartment income to manage the home mortgage.

Consider that this Bermuda family group has worked hard for many years to acquire a home, savings, investments, pensions, insurance and the like on an income tax-free basis - may or will possibly face taxes imposed by their new country on their Bermudian-based income and assets — all that was earned (and saved long) before moving abroad.

Hardly seems fair, does it, to have to face the financial dilemma of allegiance between two (or even more) countries. However, a planning review implemented prior to an emigration move, or an application (say a US green card) and the

like before the family is considered resident and subject to tax in another country can mitigate these consequences. Such a review will detail every aspect of you and your family's legal, tax, and financial positions.

The Cross-Border Data Discovery Checklist below was developed by the author from a culmination of 30 years of client domestic and international financial planning. Even so, this list is a general overview, not all-inclusive and does not (or cannot) address individual positions.

The CB Checklist is meant as a guide for emigrating families to start the process of planning — before they walk into taxation surprises.

**Readers: Cautious due diligence is required, however, to discover “dormant” international contexts in what appears to be an ordinary Bermuda domestic family.**

The full documentation and explanations for cross border financial planning is beyond the scope of this first in the Bermuda Islander's Fundamental Financial Planning Series Primers, but will be featured in a future primer.

**This list below is strictly an overview, never comprehensive; it is well to remember that there are always information and adverse circumstances surprises!**

- Residency, Domicile and Citizenship(s) compounded
- Country Connections and Familial Relationships: Social, Emotional, Cultural and Physical Ties to Two or more countries
- Multi-national businesses, marital multiple citizenships, global employment
- International and Domestic Tax Compliance FATCA, CRS, AML, KYC, etc.
- Immigration and Customs Regulations in Crossing Borders

- Duelling Economies, Trade & Business Interests Complications
- Cash Management, Currency Exchanges
- Investments, International and Domestic Allocations, Passive and Active, tangible and intangible, foreign and domestic, tax efficient and tax compliant and non.
- Insurance and Risk Management for Multiple Jurisdictions.
- Retirement and Pension Complexity Constraints
- Estate Planning for Multinational Families in more than One Jurisdiction
- Regulatory Quagmires, Conflicts of Laws, and Inadvertent Financial, Legal and Immigration Planning Traps

#### **CAUTION:**

I've been warning Bermuda residents of these inevitable tax regime complications for many years. Therefore, it behooves any Bermuda island resident individual / family with international connections to seriously plan for the financial, tax, legal, immigration, insurance, retirement, and estate planning impact of any or all of the following criteria on each financial decision.

If you have these complex family situations, you should consult first with a qualified internationally experienced professional (knowledgeable in all aspects of the international financial / legal connections that you or your family are exposed to) before implementing any financial plan.

For instance: Where is your residency, domicile, and citizenship(s)?

A person's residency (and domicile), or a business or trust entity's place of central control and management, is the most critical attribute because where a person is considered resident is where the person will be subject to taxation. **Residency determination will override citizenship, generally, except for the US model.**



Residency is defined in taxation terms by the OECD Model Treaty that is used by most countries in the world today; it is based upon the number of days of residence, generally 183 days or longer in a year. Residency may also be defined by facts and circumstances test, and reference specific country residency definitions: US Immigration and IRS. HMRC — the UK has a different definition of residency and domicile; Canada Revenue Agency residency regulations, legal definition of a resident — different again.

### Complications of Relocation

Relocating to another jurisdiction is not necessarily the panacea for all ills.

Every single country on the planet has different government regulations, customs, legal hurdles, residency/citizenship obligations, cost-of-living, insurance, immigration constraints, inheritance.

Almost all (of 244 countries and territories) have income tax regimes. See Wikipedia International taxation

Another primary concern, "free" health costs elsewhere while often cited as a reason to leave, is a misconception.

Health costs in Canada and the United Kingdom are paid for by everyone through their tax liability deductions and income tax return assessments.

Employers in the US are not legally obligated to provide health insurance at all, leaving it up to the individual to fund their own healthcare. Government subsidies exist, but US Medicare for retirees is paid — long in advance — through one's entire working career, in addition to income taxes.

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The overwhelming planning for the family here is how to manage the assets they currently own when transitioning from Bermuda's income tax-free environment to a fully integrated tax regime system country.

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**Also, keep in mind that all financial institutions as well as other bureaucratic offices in these three jurisdictions have just as many tedious bureaucratic compliance forms for opening bank, investment and other accounts as Bermuda does.**



Each family's case will be as unique, depending upon the family circumstances, nationality, citizenship ties, financial holdings, relatives, careers, businesses, retirement logistics and so on.

### Here is an illustrative example.

A long-term Bermuda resident family is considering emigration, but with no connections to any of the three primary Pond- straddler countries: US, UK and Canada.

The hypothetical family's financial holdings:

- A couple, both fully employed at mid-tier positions.
- British Overseas Territories Citizen Bermuda passport holders.
- Savings accounts and term deposits.
- Small investment accounts, locally provided mutual funds.
- One spouse is a large minority share-holder in a small Bermuda company; the other owns another 10 per cent.
- Home owned for 20 years; little equity, large mortgage due to renovations to rent to supplement their retirement abroad.
- Two mid-size, whole life policies.
- Basic health insurance provided by local employers; couple pays additional benefits.
- Decent individual pensions, accrued from more than 30 years of employment.
- Old age contributory pensions eligible — unknown how much.
- Family trust for two children, both minors.
- Possible, but you never know, small future inheritance.
- Bermuda wills.
- No affiliation with foreign investments, etc, at least they don't think so.

### Emigration.

Space does not permit addressing how this family will legally migrate abroad or their choice of country. Egress may be obtainable through various sponsorship programmes to either Canada or the US, or perhaps ties to the UK through Bermuda.

Timing date of residency is absolutely critical to their pre-immigration cross-border financial planning, while there are numerous other pitfalls relative to domicile, citizenship, tax, immigration.

Income and other taxation.

Residents of Canada, the US and the UK are subject to tax on their worldwide income. Each country's tax laws are complex, involving federal government, provinces, states and/or municipalities, relative to types of income, dividends, capital gains, wages, active or passive income and so on.

All three countries employ somewhat similar progressive tax systems with each new income block threshold, the tax rate increases.

We take a look at the 2019 income tax regimes for Canada Federal and Province of Alberta combined that can readily be found by researching the Internet.

An individual with up to \$47,630CAD will be taxed at two rate thresholds, rates increasing again over two more thresholds.

Simple (not-all inclusive) observations.

The income generated from family assets may all be taxable in the new country, once they are resident:

- Interest earned on savings and term deposits.
- Dividends paid by the local Bermuda company, investments and mutual funds.

- Rental income on home.
- National Pension distributions, either draw-downs or an annuity choice.
- Government pension distributions.

**Additional taxation and regulatory questions arise:**

- Are Bermuda life insurance premiums, cash value, or settlements taxable?
- Are the policies transportable, or need to be reissued as new policies?
- Can they operate the Bermuda company from abroad? If so, will it be categorised as controlled foreign corporation (or other) with taxability of undistributed income?
- Are Bermuda mutual funds, National Pension Scheme portfolios transportable in entirety?
- Can a Bermuda trust granter/beneficiary structure, such as attribution of income to granter trigger tax events, or a non-recognition of trust?
- Possible family inheritance taxable?
- Eligible for social insurance in new jurisdiction?
- Are Bermuda wills and trust document not recognised elsewhere?

**Investment property low-cost basis tax traps.**

Relocation families may keep long-term owned real property, and foreign investments, intact. If these entities have low original costs and are sold after relocation-to-new-country transition is complete, the family may be subject to large capital gains on sale profits, payable to their new country's treasury.

**Relocators have touted cashing out as the easiest way to move, but expert professional advice should correlate with this opinion:**

- Liquidate all assets;
- wind up life insurance policies, but not before qualifying for new jurisdiction-approved policies;
- convert Bermuda dollar cash to currency of choice, say positively capturing the low current Loonie rate, but taking a penalty for pound purchases.

But even the cash-out method may not cover future Bermuda pensions, trust, or other distributions where the family may be forced to pay income tax on assets earned tax-free far, far away before relocation.

Currently, its Bermuda pension law (for both) has been updated - for the Bermuda National Pension Scheme - to allow for a premature or at retirement lump-sum distribution (25%), an ideal situation for those leaving permanently.

**This is a challenge that the family will have to investigate in great detail.**

One rule — get qualified professional planning before you go. Readers, I remind you again that this is not specific cross border or any other financial planning advice for you - it is simply an illustrative hypothetical overview to demonstrate the complexity of the cross-border decision process.

*These observations cannot be relied upon for your individual situation and the author makes absolutely no representation as to the appropriateness or reliability of said observations.*

## Research and Plan - Extensively - before Relocating



CupMatch. Scott Stallard Photography

Bermuda Cup Match weekend is a tradition for the ages, and it continues. But this year may be the last Cup Match good time (if it is held physically at all due to COVID) for those planning to leave this precious place.

No matter the reason for going, for those of us with deep roots of limestone and the sea to our iconic island embedded deep into the core of our lives, “parting is such sweet sorrow,” à la Shakespeare.

### Plan first!

The decision to emigrate requires serious considerations. Individuals and families need to have a very clear cross-border financial plan and timeline in place before the big transition.

- Start with internet research.
- Social network with those gone before;
- allow adequate time for decisions, changes and implementation in your financial strategies.
- Seek qualified credentialed international professional advice if you cannot find answers.

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I emphasise this heavily — reliance on friends and family narratives do not encompass you or your financial situation.

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Get it right the first time. It will be stressful enough relocating without having to deal with inadvertent, expensive tax and financial mistakes.

Here are some key planning factors (not inclusive) and references for the five most affinity-linked countries. Space does not permit links to Costa Rica, Panama, Florianopolis/Brazil, Australia, New Zealand and Europe, which are all popular places where many Bermuda islanders have resettled communities. Costa Rica alone has more than 150 former Bermuda families.

### Where will you relocate?

- The big question. Do they want you? Countries have immigrant quotas, some more generous than others.
- Can you live there, permanently?
- Avoid disappointment. Research everything: language, culture, taxes, legal rights, health-care, retirement/pension benefits, property ownership, finances and banking, licensing, transportation, cost of living, estate planning, and many government regulations.

### How will you get there?

- Entry into new country via government programmes, relatives, employment, business connections?
- What visas/permits needed?
- How, or are you being sponsored?
- Have the applications already been filed, when, and where? Timing for entry/residency acceptance is everything here—relative to taxation (or not) by your new jurisdiction.
- Entry/Exit. Can you come back if you change your mind?

### Will your status be different?

- What is your residency, domicile and potential citizenship status?
- Have you been in and out of the new country intermittently already?
- Are you tracking stays for how long and when? Tax revenue agencies may use prior visits and time spent as part of a tax liability assessment. Be very careful here.
- Residency categorisations vary by country, e.g. Canada uses a combination of points including day counting, significant connections and attachments and others.
- Domicile. Keeping your original domicile or renouncing — not clarifying can affect income and estate planning.
- Connections and path to citizenship ties: Parent(s), grandparent(s), marriage?

### Finances — review all current positions carefully.

**Research the new country's tax structures that will impact your pre-emigration earned income and assets.**

- Cash. Convert, compliance, new country account openings, foreign exchange.
- Investments: prohibited, low-cost basis, market timing for liquidation.
- Real property; renting, selling, settled in foreign trust.
- Pensions; leave, liquidate, transportable.
- Insurance: non or compliant life, and possible annuities.
- Wills and estates. Not recognised, wind-up, or two-country wills execution.
- Foreign trust treatment by new country tax authority.
- Local debit/credit cards: keep, close out — possible AML complications from transferring monies held in Bermuda to another jurisdiction, if not reported.

- Business: sell, keep as shareholder, foreign company tax issues?
- Leaving income-generating assets in Bermuda? Reporting worldwide income is mandated by all of these countries.

### **Why emigrate?**

The 2020 Royal Gazette survey says it all. The cost of living according to more than 76 per cent of the 3,000 survey takers.

And currently, the change in the economic environment due to social distancing, COVID-19 mandates and future employment considerations.

Here are some useful references for a number of popular relocation destinations. All references were considered to be current as at date of publication.

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One more thing to keep in mind.

Emigrating to another country means that not everyone says, “Good morning!”

**You are in their country now — YOU are the foreigner.**



[Listen to Bermuda Pondstraddlers' Crossing Border Challenges](#)

<https://tinyurl.com/yzbyeyx5>



## References & Resources

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Immigration: How to Enter the US.

Residency: Green Cards and Permanent Residence in the US.

Citizenship: Guide to Naturalisation Process.

How to apply for US citizenship.

Taxation. US Internal Revenue Service.

international taxpayer section

### UNITED KINGDOM

Residency and domicile rules defined. Citizenship. Citizenship and living in the UK Immigration. Visas and immigration.

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- EY 2018-19 Worldwide Personal Tax and Immigration Guide — UK.

### CANADA

Residency. Determining residency status.

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Domicile. Home is Where the ... Domicile is? September 2018 | Dwight D. Dee, Kathryn Gullason.

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### AUSTRALIA

Residency. Apply for permanent residency Domicile. The Australian Domicile Test.

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Immigration.

Taxation. Australian Taxation Office.

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## AZORES (PORTUGAL)

Residency. Applying for residency in Portugal.

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- Domicile and succession.

Citizenship. Seven changes in Portuguese nationality law.

Immigration. Official Website.

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- EY 2018-19 Worldwide Personal Tax and Immigration Guide — Azores/ Portugal.

### Broader References

Wikipedia for all countries under taxation, immigration, domicile, citizenship and residency.

Readers, the firms and individuals listed below are for information purposes only and are not to be considered endorsements by the author.

Always consider locating and working with a licensed qualified international or US Attorney, or a CPA, Certified/ Chartered Public Accountant, a mark recognised worldwide.

## PLANNING AND TAX ASSISTANCE

TAX TALK Virginia La Torre Jeker, J.D. — US tax matters affecting international clients

UK. The Fry Group

US. Planning and taxation. Robert Baldwin, CPA, Baldwin & Associates, Charleston US  
<http://baldwincpa.com/>

Canada. Michael Atlas CA

Portugal. Forth Capital

Bermuda taxation accountants: EY, KPMG, Deloitte, PricewaterhouseCoopers.