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**PASSPORT PORTFOLIO™ DIVERSIFICATION:  
How Choosing the Right Mix of Residences  
and Passports is Essential to Preserving  
Wealth Over Generations**

Author: David Lesperance, Barrister & Solicitor, Lesperance & Associates

# **PASSPORT PORTFOLIO™ DIVERSIFICATION: HOW CHOOSING THE RIGHT MIX OF RESIDENCES AND PASSPORTS IS ESSENTIAL TO PRESERVING WEALTH OVER GENERATIONS**

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Author: David Lesperance, Barrister & Solicitor, Lesperance & Associates

As lawyers, our skills have all been severely tested over the last year and especially over the last few months. We are all dealing with a level of volatility in the markets and the world in general which is both extreme and far reaching.

If I was to have told my clients this time last year that I thought there was even a 10 percent possibility that Bear Sterns, Lehman Brothers and Merrill Lynch would not see New Years Day 2009, they would have thrown me out of their office as a paranoid crank. The new accepted reality is that our clients now understand that their current world will not last the next decade, let alone their lifetime.

This paper is about Passport Portfolio™ diversification. I will be bold in saying that getting this right will be the most important factor in determining whether our clients maintain and grow their wealth over their lifetime and future generations.

If you think that I am overstating its importance, it is worth remembering that the decisions made by our own ancestors to move from their country of origin had a profound effect on the course of not only their own lives, but those of the generations that followed them.

## **What is a Passport Portfolio™?**

A Passport Portfolio™ is the collection of an individual's residence (or residences), citizenship (or citizenships) and current domicile (i.e. single "ultimate home").

You all know what citizenship is: the right to live work and carry the passport of a particular country. Some citizenships offer more benefits or rights than others. This may include visa-free travel to most of the world, the right to hold more than one passport, or the right to live and work in other countries that are part of the same trade bloc – such as a citizen of Europe or Australia/ New Zealand. Other trade blocks such as NAFTA don't give an absolute right of abode but do offer preferred entry for professionals or HNW business people.

Citizenship is a valuable asset that is rarely handed out lightly. Unless you are born in the territory or have parents of that country, it generally takes years of residence to qualify for citizenship. In the UK and US the naturalization period is five years; in Canada and New Zealand it's only three years.

But there is an alternative called **Economic Citizenship**. Countries that offer economic citizenship waive the normalization period for people who make an economic contribution to the country, usually by buying government bonds or real estate. That's useful if they want to arrange an early exit from a country, such as the U.S. for tax reasons; as a safety net should their current passport be cancelled; or as a supplement to their existing passport to enable them to travel without needing to obtain visas in advance.

Along with citizenship, the other elements of a Passport Portfolio™ are residence and domicile.

**Residence** generally has both a tax and an immigration element to it.

**Tax residence** is usually based upon a count of the number of days a person spends in a jurisdiction or a review of various indicia of residency.

**Immigration residence** is usually granted on a temporary or permanent basis. It may allow an individual physical presence, re-entry, employment/study rights as well as land ownership.

**Domicile** is an estate- tax concept. It looks at a person's "ultimate home". All persons, even "perpetual tourists" are deemed under law to have a domicile. Everyone acquires a "domicile of origin" at birth. Then, they may acquire a "domicile of choice" by changing their residence and acquiring long-term trappings of a new home, such as a cemetery plot and new will.

### **Why is a Passport Portfolio™ important?**

Who gets affected most by these global headwinds? The globally mobile elite, HNWI individuals and business families – your clients and mine.

Our clients will always need specialists in tax, accounting, law and business. Today, as a result of the "clear and present" dangers I discuss below, they also need experts in international citizenship and residency. Protecting these individuals and families will always be a team effort, and this team must keep expanding to cope with emerging threats and take advantage of the new opportunities in our ever changing world.

As the world's economies continue to globalize and integrate, more and more of our clients are recognizing that citizenship is much more than the nationality inherited at birth. Citizenship and residence are powerful, strategic tools. They are assets that they can acquire or give up in order to create a better life for themselves and their families. Citizenship is really about family, safety, and choices.

"Creating options" is the motivation behind the concept of the Passport Portfolio™. Many of our clients have homes, businesses and investments in multiple countries. Some even have children working or studying on different continents. Leveraging this situation by acquiring new residences and citizenships is a way of giving the whole family more options for the future, more shelters from the storm, in case of trouble or unrest in their home country. In today's complex and often dangerous world, it is perfectly legal and natural for our clients to develop a comprehensive Passport Portfolio™. To make sure that they and their families have strategic options, no matter what life, business or politics throws at them.

By applying for alternate residences and citizenships, our clients can retain maximum control over their lives and assets. Of course, it takes time and specialized expertise to identify which countries provide the best combination of security and opportunity for each client. And once your clients do identify the most likely jurisdictions, it's not always easy or cheap, to get the citizenship or residence they are seeking and qualifying for those citizenships can take years. That's one more reason why our clients need a Portfolio of passports and residencies – to help them transition from one citizenship to another, without leaving them at the mercy of one country while they wait for their new country to embrace them as a citizen.

As you can appreciate, selecting the right Passport Portfolio™ for each individual is a job for experts. Our clients need advisors who understand the tax, financial and mobility needs of business families. To maximize their security and freedom, they also need advisors who know the pros and cons of multiple citizenship and residency opportunities around the world. One reason the concept of the Passport Portfolio™ is still relatively new is that very few of the people who qualify for this strategy have advisors who fully understand the opportunity, or know who to call to find the best solutions.

### **Three Threats Increasing the Importance of a Passport Portfolio™**

So, now that I've introduced you to the concept of the Passport Portfolio™. Let's step back and see why a properly constructed Passport Portfolio™ is a "must have" for our clients. Specifically, let's look at three key areas that are increasingly threatening our clients' wealth, security and peace of mind.

## **Threat 1: Family Law and Divorce Settlements**

I've yet to see anyone on their wedding day who didn't think their marriage was going to last forever. But over 50 percent of these starry-eyed lovers (including me!) were in for a rude awakening.

As you know, many jurisdictions have beefed up their family-law provisions in recent years to ensure that divorce settlements are as generous as possible to the partner with the lower income. Of course, generosity and fairness are in the eye of the beholder. Our clients don't want their ex-spouse to starve to death. But most of our clients don't think it's fair to have to hand over **half of their lifetime accumulated assets** to a spouse, or hefty portions of their **future** income. Yet that's exactly what can happen when they reside in a jurisdiction – such as the U.K., or the U.S. – that treats divorce as an opportunity for wealth redistribution.

You wouldn't advise a client to get married without a pre-nup, but even those can be attacked in many jurisdictions. The best way to preserve a client's wealth is to make sure they have residency or citizenship in a country that takes a hands-off approach to divorce and upholds legitimate prenuptial and trust arrangements. That's how our clients can clearly define their obligations, avoid long and draining legal battles, and make appropriate, and sustainable, decisions regarding marriage and divorce.

I have many clients who are avoiding this situation through a pre-marriage combination of trust planning, pre-nuptial agreements and residence in a jurisdiction which will uphold the prior two elements. Divorce settlements aren't just about fairness, or need: they are all about **geography**.

## **Threat 2: Restrictions on Mobility**

All over the world, affluent business people who thought they had the freedom to travel have found themselves facing unexpected restrictions. Gulf nationals who thought their country was joining the first world of industrialized nations now find they need a visa to travel almost anywhere. And Russians who have found themselves on the wrong side of an administration have had their passports yanked away.

If you think nothing can happen to our clients because they're British, American or German, think again. Look at the first page of your own passport. You know what it says? It's not your passport, it's the government's. The government and its courts (even in civil or matrimonial litigation) reserve the right to take it away at any time. How would our client's life be affected right now if they did? How would their lives change if they had a minor criminal charge such as drug possession or just exceeding the minimum drink drive standard?

Today, our clients treasure mobility. Unfortunately, the world of passports – the fundamental document that enables us to travel – hasn't kept up with people's needs. Any passport can be subject to seizure, curtailed travel benefits or political jeopardy.

Prudent HNW people need a second passport and a second home. Better still, they need a strategy to make sure they have the right combination of citizenships and residencies to meet their personal and business needs, and those of their families. Armed with an appropriate Passport Portfolio™, our clients don't need to worry about their passports being seized, or about tightening regulations grounding them in their home country. They always have options. They are protected from the unexpected, or what the 18<sup>th</sup>-century scholar known as Junius calls "arbitrary measures."

## **Threat 3: Increasing Taxation**

We all know that taxes for our clients bear absolutely no relationship to the services that the government does or could provide to them. And the fact is that, after a few years of tax reductions in many countries, including the US, and the UK, the tax-and-spenders are on the march again.

For Americans, it's not enough to just move out of the U.S. American citizens are cursed with the "Original Tax Sin" of taxation based on citizenship. They are subject to U.S. income taxes no matter where they live.

As a result, many Americans are revising their citizenship strategy. Having a second passport is a good defensive play, but some now realize that expatriating themselves from U.S. citizenship may be a more viable long-term strategy for preserving their family's financial future.

I have a number of affluent U.S. entrepreneurs as clients, and I have been telling them for years that their annual tax bill and estates would benefit significantly should they ever decide to accept another country's citizenship and renounce that of the U.S. As you know, Americans love their country and their flag, and have trouble envisioning themselves as anything but Americans. But I can tell you now that with IRS's new aggressiveness; the cost of TARP, the Stimulus Package and the Afghan and Iraq wars; and the President, both House of Congress and the public calling for higher taxes on the most successful; many wealthy Americans are allowing this strategy to enter the "realm of possibility". In recent months a number of these clients have come to me and said, "Okay. It's time to look at alternatives to being American."

And here's the value of a Passport Portfolio™. In the end, many of our clients may never make the jump. We will help them get a second passport and residences in civilized, well-connected jurisdictions that fits their business and life styles and help them arrange their affairs to give them increased mobility, options and freedom – even if they never renounce their U.S. citizenship. However, they will have that option ready to go. If the U.S. applies the particular straw which breaks their camel's back, they will be able to make their move without panic or delay.

Many members of society may call creating a Passport Portfolio™ to defend against tax grabs etc. cynical or unpatriotic. My clients just view it as prudent. All over the world, governments are looking for revenue and eyeing the affluent as the most promising source of that revenue – and the easiest target politically.

Our clients should consider their Passport Portfolio™ as the ultimate insurance policy. They may never need it, but it's there if they do. Think about your own fire-insurance policy: the chance of your home burning down is pretty remote. But the devastating impact of a fire is so great that homeowners have to protect themselves. In global citizenship strategies, the calculation is similar. Our clients are investing in a solution they may not ever use – but if worse comes to worst, they're prepared.

### **Maximizing the Efficiency of a Passport Portfolio™**

Now that I have talked about the threats and needs behind a Passport Portfolio™, let's walk through how to evaluate our client's current Passport Portfolio™ and increase its quality and flexibility. Before doing anything, let's establish benchmarks. Clearly, some citizenships and residencies are better than others. I divide them into three categories: Five Stars, Three Stars and One Star.

**Five-Stars** are citizenships or residences with great advantages in lifestyle, visa-free travel, preferences to live and work in trade blocs such as NAFTA or the EU, and preferences in local investment opportunities.

**Three-Stars** are citizenships or residencies that have the potential to become five stars. For example, residencies that, after the naturalization period, will become five star citizenships – or citizenships in emerging countries that may, in time, join trade blocs.

**One-Stars** are citizenships or residencies that come with problems, such as poor visa-free travel, world-wide taxation, restrictions on dual citizenship, poor lifestyle and business opportunities, capital expatriation restrictions, mandatory military service or excessive government intrusion.

As you can see, it gets quite complicated. Add in the needs of a business or a growing family, and things become even more complex. Also factors such as progressive tax rate systems can turn a Five Star jurisdiction into a One Star jurisdiction for a wealthy client. The good news is, the more we help our clients properly identify their own Five Stars, Three Stars and One Stars, the more control they gain over their lives and assets.

Let me tell you how the process works. When helping an advisor to improve our client's Passport Portfolio™, I suggest we follow a four-step process.

- 1. Set out the client's goals.** Include needs and wants, and those of their spouse, business and children. Remember, this is one of the most important decisions our clients will ever make. It will impact their children and grandchildren, so we must help them to get it right.
- 2. Review the client's existing Passport Portfolio™.** Find out what rights and benefits our clients have with the current citizenships and residences they possess. In addition, we review the background of the client, their parents, their spouse, and their children. They may be surprised how many options – or problems – they already have.
- 3. Plan an integrated strategy to revise the client's Passport Portfolio™.** The loss or acquisition of residence, citizenship and domicile can have a profound effect on all the other elements of our client's life. Care must be taken to make sure that the Passport Portfolio™ supports and does not undermine the financial, succession, or business plan designed by the advisory team. In addition, the strategy should be consistent with our client's lifestyle and not have an onerous physical presence or tax burden.
- 4. Regular monitoring of the client's Passport Portfolio™.** Laws, taxes, rights and benefits all change over time. In addition, your client and their family's lifestyle will change as they progress through the normal stages of life. On-going monitoring of the Passport Portfolio™, and its integration with the other planning elements and our client's life **as they actually live it**, is critical.

### **Into the Future**

Hopefully, I have made you realize the importance of proper Passport Portfolio™ diversification. Threats such as matrimonial law, taxation and restrictions on mobility have an increasingly significant impact on our client's lives and wealth. Evaluating and changing our client's current Passport Portfolio™ must be done in a methodical and co-ordinated manner to ensure maximum benefit and flexibility. Finally, once this initial work is done, it is critical that systems for on-going evaluation, fine tuning and education of future generations are put into place.

Clearly, the options available to our client's Passport Portfolio™ are many, varied and powerful. This is a life-changing exercise that will affect generations of family members to come.



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