



Ignore the ‘free’ advice from friends and golf buddies when exploring cross-border legalities

• by Bob Keats

Canadian travellers entering the U.S., whether for a short-term trip or a longer-term winter stay, can greatly eliminate the time and stress of dealing with U.S. Customs and Border Protection (CBP) personnel by following a few simple strategies.

The first part of making your U.S. entrances smooth and easy is to understand what the U.S. CBP personnel’s job is with reference to enforcing U.S. immigration rules. Here is a verbatim quote addressed directly at Canadians from the CBP website, CBPgov: “The burden of proof that the Canadian citizen is not an intended immigrant (plans to make the U.S. their primary residence) is always on the applicant. There is no set period of time Canadians must wait to reenter the U.S. after the end of their stay, but if it appears to the CBP officer that the person applying for entry is spending more time overall in the U.S. than in Canada, it will be up to the traveller to prove to the officer that they are not de facto U.S. residents. One of the ways to do this is to demonstrate significant ties to their home country, including proof of employment, residency, etc.”

There are many rumours circulating and re-circulating that are totally inaccurate and contrary to the above CBP statement, particularly as to how and when days are counted for each visit. Therefore, it is very important, for starters, to ignore the “free” advice from friends, relatives, poolside chats, golf-course conversations and neighbours, unless perchance the individual is an experienced U.S. immigration attorney or CBP high-level staff member that has extensive experience with Canadians entering the U.S.

To prove to the CBP officer that you are not a de facto U.S. resident, prepare a “border kit” to show you have a residence in Canada and are intending to return to Canada. Preferably, this kit should be in written form although electronic format in a smart phone or tablet should also work.

**ALWAYS HAVE THESE ITEMS EASILY ACCESSIBLE**

- Most recent phone bill and other utility bills
- Most recent property tax notice if you own, or rental agreement if you rent
- Most recent Canadian tax return and non-resident IRS forms filed, such as the Closer Connection Form 8840 or the U.S. non-resident tax return the 1040NR
- Valid provincial driver’s licence and health card
- Proof of employment if still employed (e.g., latest pay stub)
- Canadian vehicle registrations if driving or return plane tickets if flying

Don’t carry any items that may indicate U.S. residency, such as a U.S. driver’s licence, U.S. mail, anything relating to U.S. property you might own or U.S. bank credit cards. A golden rule is always be truthful, present the facts, just answer the questions they ask, and don’t volunteer information.

How would you like to have the ability to be from the curb to the gate or from the gate to the curb in 15 minutes if you are flying, or if you are driving to be able to pick the shortest line of cars at the border when going to or from the U.S.? By far the best thing you can do to be able to have this capability is to enroll in one of the trusted-traveller programs. The best one for Canadian/U.S. travel is Nexus. You can apply for Nexus online (goes-app-cbp.dhs.gov), pay a \$50 fee for a five-year membership, and go for

an interview at pretty much any major U.S. border-crossing agency or Canadian airport. You will get more travel privileges than most topline frequent-flyer programs.

If you are a Nexus member and even if you are not traveling to the U.S., most Canadian airports have Nexus lines that allow you a speedy process through airport security. In the U.S. it is very useful, as you will qualify for Transport Security Information pre-check at all U.S. airports when flying with an airline that is also enrolled in the program (most major airlines flying to Canada, with the exception of Westjet, are TSA pre-check approved). TSA pre-check is a most wonderful service when using U.S. airports. Not only are the lines very short and very fast, you do not need to remove shoes, belts, hats, jackets or take anything out of your bag including liquids and laptops.

With grandchildren and offices on each coast of the U.S., and an office in Canada, I spend a lot of time travelling. The Nexus trusted traveller program has been the best \$50 I have ever invested. I seldom spend more than five minutes in any lineup at any airport in Canada or the U.S.

Even if you only cross the U.S. border a few times a year these travel tips will make your crossings stress-free and provide you more time to enjoy your vacations and relationships rather than being stuck in lines at airports or borders.



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