



COMM FAX

On Commercial Law

A Publication Devoted to Commercial Law and Intellectual Property Issues • www.garanlucow.com

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Commfax is a publication devoted to commercial law and intellectual property-related issues published by GARAN LUCOW MILLER, P.C.

GARAN LUCOW MILLER, P.C.'s Commercial Law Department has broad experience in defending a variety of commercial law-related claims including those involving real estate, the Uniform Commercial Code, intellectual property and corporate-related matters. This issue of Commfax examines developments regarding cross border issues with Canada.

TEN STEP RECIPE FOR TROUBLE-FREE TRAVEL INTO CANADA AND BACK TO THE U.S.

The U.S. / Canada border is reputed to be the friendliest border in the world. Travel between the United States and Canada is usually easily accomplished. Questioning at the Canada and U.S. border (the "booth") typically lasts less than 60 seconds. To keep it that way, and get you into Canada and back into the U.S. without incident, be prepared follow the "TOP TEN Do's and Don'ts" for an enjoyable Canadian experience.

1. Have Answers – Don't Hesitate – Be Respectful!

The following are the "most frequently asked questions" at Canada and U.S. Customs. If the questions you are asked stray much from this, the examiner may be suspicious of something. Each person in the vehicle is usually expected to answer at least one question. You may not be asked all of these questions.

- ▶ Where were you born? Citizen of what country? Where do you live? (City / State)
- ▶ Where are you going / Where did you go? How long will stay / How long were you away?
- ▶ What is / was the purpose of your visit?
- ▶ What do you have to declare? What are you bringing in to / what did you acquire while in Canada?
- ▶ Do you have more than \$10,000 in cash with you?

Have your radio / DVD player off and remove your sunglasses. The examiner wants to move you through within seconds...don't give a cause for a delay.

- 2. Have or get a PASSPORT – You will need one beginning December 31, 2006 if you are traveling by PLANE or SHIP. However, Passports are not required to cross into Canada by car (LAND) – at least not for now.**

It is strongly recommended that all travelers travel with a passport. Without a passport, it is recommended that you also bring an original or certified copy of a birth certificate and photo ID.

Pets also need passports. To bring your dog or cat into Canada, you will have to present Canada Customs with a valid rabies certificate, showing that your dog or cat has been vaccinated between 30 days and three years ago – that's their passport.

Be Warned! Get your Passport now (it's good for 10 years). If you have to travel by PLANE or SHIP, and you don't have a Passport, you will be denied entry back into the U.S. (if you made it out without one) or will be required to apply for a Passport Waiver (costly), which may or may not be granted by the U.S. Immigration officer (they have discretion).

- 3. Children / Infants – Don't take any child with you unless you have proper documentation, both parents are with child / or you have written permission.**

Like adults, proper identification is required. Unlike adults, if both parents are not present, the traveling parent must provide a signed statement from the other parent (Custody Order may suffice) allowing the child to travel out of the country. The signed statement (preferably

notarized) should name all the parties and their relationships and dates and purpose of the trip. Failure to provide such evidence may make you unable to cross the border with your children.

- 4. Radar Detector – Leave it at home or risk losing it and paying a substantial fine.**

It is illegal to take automobile radar detectors into the provinces of Quebec, Ontario, and Manitoba and into the Yukon and Northwest territories. The police will confiscate radar detectors, whether in use or not, and may impose a fine up to \$1000.

- 5. Guns/Weapons (including Mace and Pepper Spray) – Unless you're a law enforcement Officer, don't bring them with you. Check your car, and if you're traveling in someone else's car, make sure they know not to have weapons with them.**

Firearms are strictly controlled and many are not permitted in Canada. Handguns and assault weapons (including pepper spray, mace and certain knives) are prohibited. Canadian law requires that officials seize firearms and weapons from those crossing the border that deny having them in their possession. Seized firearms and weapons are never returned.

U.S. law enforcement personnel and other persons legally carrying firearms may check their firearms with Canada Customs and Immigration at their point of entry into Canada and the firearms will be returned to them when they leave Canada at the same border point or at another prearranged border point at their discretion. Know before you go - Be certain that you have the proper

documentation <http://www.amcits.com/weapons.asp>.

- 6. Criminal Record – Even a D.W.I. may prevent you from entering into Canada you may be able to apply for a Waiver (Minister's Permit), pay \$200, and enter on a limited basis.**

How will they know? Canada Immigration computers may show convictions as far back as 20 years ago. Persons with a felony may be denied entrance into Canada. If you have a criminal conviction in the United States, it may be considered a felony in Canada. (A Driving While Intoxicated conviction (D.W.I.) is considered a felony in Canada.)

Apply for a waiver a minimum of 3 - 4 weeks in advance of the intended visit and realize that it could take as long as 6 months to process depending on the record. Persons without waivers who have only DWI's or other less serious criminal convictions and have no criminal convictions in the past 10 years may be considered rehabilitated when they reach the border, but this is at the Canada Immigration officer's discretion. A "Remote Area Border Crossing Permit" may assist the Immigration officer in determining admissibility to Canada since it requires normal background checks. This permit costs \$30.00 CAN. More information regarding the "Remote Area Border Crossing Permit" is available at www.cic.gc.ca/english/visit/rabc.html

- 7. Tools – Product Samples – Work Related Items – Leave them at home! Don't create an impression that you are entering Canada for work. "Perception is Reality" and you may be denied entry.**

Professional tools, parts, samples, or anything else that would give the impression that you could perform work while in Canada should not travel with you unless you have a Canadian work permit. Items not declared may be seized. This could also include extensive amounts of expensive, professional, photo or electronic gear.

- 8. Ownership & Insurance (Auto & Health) and Prescription Drugs – Do you have the vehicles registration and insurance? Just like Michigan, Canada requires that vehicles be insured. If you don't have medical insurance for travel, you run the risk of the costs not covered if receiving Canadian Medical treatment. Also, make sure that all prescription drugs are clearly labeled as such.**

The Driver must have a valid driver's license and registration. If you are driving a rental car, check with the company as to whether the vehicle can be driven across the border and whether you have the insurance coverage for Canada. If you get in an accident, you will be required to prove you have Canadian coverage. Best to ask your insurance carrier to provide you with a supplemental card that states you have Canadian coverage. Don't enter without liability coverage for your vehicle.

If your health insurance policy doesn't cover you in Canada, consider purchasing supplemental or other insurance. The U.S. Social Security Medicare Program does not provide for payment of hospital or medical services outside the United States.

9. **Cash – Purchases – Gifts – Goods. What can you bring into Canada and what can you bring from Canada. Make sure you declare what you're bringing with you to both the Canadian and the American Border Officers.**

If you are bringing in or taking \$10,000 or more in cash or negotiable paper through the U.S. border, you must declare it. There is no tax, but Uncle Sam wants to know. Fail to declare it, and those assets, if discovered, will be seized regardless of the explanation.

Re-Entry to the US Within 48 Hours Of Leaving

Goods purchased must be for personal or household use. Exemption is individual and cannot be grouped with other family members. Goods are free of duty up to the value of \$200 USD. Also, ten cigars, 50 cigarettes and 4 fluid ounces (150 ml) of alcohol or perfume containing alcohol, may be included. Cuban tobacco of any kind is prohibited into the United States regardless of where it was purchased. If limits are exceeded, you are subject to duty and taxes.

Re-Entry to the US After 48 Hours or More

Every 30 days, you may bring in goods free of duty up to the value of \$400 in U.S. funds. Family members may make a joint declaration and combine their personal exemptions even if the articles acquired by one member of the family exceeds the person exemption allowed (Family members must live in the same household and return together to the United States). Your exemption is not cumulative. If you use any portion of your exemption upon entering the U.S., you must wait 30 days before you are entitled to another exemption (other than the \$200 exemption for within 48 hours detailed above). If you go over the exemptions, you are subject to duty and taxes.

10. **Canadian Taxes (GST Rebate) – Get back some of the money you paid in Canadian Taxes. Make sure you keep your receipts and go into the Duty Free Store on the Canadian Side before crossing back to the U.S.**

As a visitor to Canada, you can claim a refund of 7% on every dollar spent while in the country on accommodation and most goods you take home. If crossing at either the Detroit-Windsor Tunnel or the Ambassador Bridge, you can claim your 7% GST cash rebate at the Duty Free Store on the Canadian side of the approach. Be sure to keep your receipts for instant GST rebates (Minimum acceptable expenditures, excluding taxes, must cumulatively total a minimum of \$200.00 with each individual acceptable receipt totaling at least \$50.00).

<http://www.canadiantaxrefund.com/>

Other Considerations:

Buckle-Up!

It's the law in Ontario and Michigan. There are frequent "blitz enforcement periods." Fines can be large and a stop can open you up to a probe for other violations. Why give Border Officers at the booth an immediate reason to frown?

Border Traffic – What's moving faster – the Tunnel, the Bridge or maybe you should think about going through Port Huron/Sarnia? Up to the minute traffic for both commercial and non-commercial travel is available at <http://www.cbsa-asfc.gc.ca/general/times/menu-e.html>

Your Dollar Goes Further

The US dollar continues to enjoy a premium rate of exchange in Canada (although it's not what it used to be). Most merchants will take your U.S. dollars – however, you may be given little or no benefit on your U.S. currency. You can also use your U.S. Credit Cards – but be aware that many credit card companies are adding a premium (foreign currency conversion fee) for this currency exchange benefit. Canadian Banks generally accept U.S. cash and provide a more favorable exchange rate than their U.S. counterparts.

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Garan Lucow Miller, P.C. is a full-service law firm founded in 1948 with offices throughout Michigan. Areas of concentration include general civil litigation defense, municipal law, intellectual property, corporate law and real estate transactions. Visit www.garanlucow.com.