



August 20, 2011

Tax Deadline Looms for Americans in Canada

August 31, 2011 is the deadline for Americans in Canada to declare file their annual tax returns. Filing tax returns entails declaring all foreign bank accounts and holdings even if you are not taxable, have not lived in the US for years and do not owe any back taxes.

But by now it might already be too late to fully comply with the tax returns disclosure requirements before the deadline as the filing requires tons of paperwork for each offshore account. The other viable alternative is to lodge a quiet disclosure. A quiet disclosure basically amounts to making a confession and asking for leniency from the IRS. And a disclosure must be made not only of your bank accounts but also “trusts” like RESPs and TFSAs, Canadian corporations and partnerships or Canadian mutual funds.

If you cannot make the deadline is the punishment would be fines of \$10,000 per offence per year for non-willful nondisclosure. But for willful nondisclosure, the penalty is at least \$100,000 or as high as 50% of a major asset.

The exact number of American citizens residing in Canada is unknown but obviously the number is large. In British Columbia alone, the consulate estimates 90,000 Americans living there. It is possible that a majority of American residents in Canada are not aware they have to file taxes in the US. And among those who do know, about half do not know they have to declare their Canadian bank accounts and holdings. In addition, probably most Americans in Canada do not realize their children born in Canada hold automatic citizenship of both countries. This means some Americans may be at risk of penalties due to their dual citizenship.

The Canadian tax rate is generally higher than the US, so in most cases US citizens working in Canada do not have net taxable assets. But taxes on certain investment income is different in each country, and there are other forms of financial earnings like lottery winnings or capital gains on the sales of property that is taxable by the US but not Canada.

Up to now, there is no way to accurately keep tabs on the number of Americans in Canada. But with the impending implementation of the Foreign Account Tax Compliance Act (FATCA) in 2013, all this will change. FATCA requires all foreign financial institutions to declare all accounts worth at least \$50,000 held by US citizens.

August 31 is also the deadline for the IRS Offshore amnesty program for all US taxpayers (resident and non-resident) to declare their offshore assets to avoid criminal prosecution. For those who meet the deadline, there will still be penalties imposed on undeclared taxable income.