

FOREIGN ACCOUNT TAX COMPLIANCE ACT

Ottawa to share financial data with U.S.

BARRIE MCKENNA OTTAWA

Ottawa will start routinely sharing vast amounts of financial data about Americans living in Canada with U.S. tax authorities.

Canada and the United States signed an agreement Wednesday that paves the way for full implementation of a controversial U.S. crackdown on offshore tax evasion in 2015.

Ottawa has long complained that the U.S. law – the Foreign Account Tax Compliance Act (FATCA) – might violate Canadian privacy laws and would impose undue hardship for the estimated one million Americans and dual citizens living here.

“Canada engaged in lengthy negotiations with the U.S. government to address our concerns and, as a result, significant exemptions and other relief were obtained,” Finance Minister Jim Flaherty said in a statement.

Under the agreement, a long list of registered accounts will be exempt from the new reporting requirements, including registered retirement savings plans, tax free savings accounts, registered retirement income funds and registered education savings plans. Also excluded are accounts at credit unions with less than \$175-million in assets and at smaller



Finance Minister Jim Flaherty says Canada negotiated exemptions into the information-sharing agreement with the U.S. CHRIS WATTIE/REUTERS

institutions where the vast majority of customers are Canadians.

“That is significant relief for Canada taxpayers because it scopes out a huge number of accounts at Canadian institutions,” explained Carlene Hornby, a partner and FATCA specialist at KPMG Canada in Vancouver.

Tax experts said the deal is a wake-up call to Americans living in Canada that they should quickly get their tax filings up to date with the U.S. Internal Revenue Service.

“For American citizens living in Canada, this really is the indication that there is nowhere left to hide,” warned accountant Kevyn Nightingale of MNP LLP in Toronto. “The clock is ticking now. The flow of information to the IRS is going to be computerized and comprehensive.”

By this time next year, the IRS will know much more about Americans in Canada, he pointed out.

Canadian authorities said they would not collect U.S. taxes or

penalties from Canadians. But the tax-sharing arrangement would give the IRS the ability to target individuals they believe may be offside, including the obligation of all Americans to file an annual tax return, wherever they live.

“It makes me sick,” said Lynne Swanson, 62, of London, Ont., who moved to Canada in 1973 and believed she had long ago relinquished her U.S. citizenship. “I feel betrayed by the country I’ve been loyal to for 45 years.”

The scope of the tax-sharing agreement is much broader than most people realize, according to KPMG’s Ms. Hornby. She said virtually all companies in Canada – from small family-run businesses to multinationals – will soon be asked by their banks to provide more information about the tax status of their shareholders.

To get around privacy concerns, the Canada Revenue Agency will collect account information from Canadian financial institutions, not the IRS.

Under the deal, Canadian financial institutions must begin sharing information about accounts held by Americans in July of this year. That information will be handed over to the IRS starting in 2015. Also, Canadians will not be subject to a 30-per-cent U.S. withholding tax for non-compliance.

Canadian banks, who have long complained about the cost and complexity of FATCA, called the deal the “best approach” under the circumstances. “The alternative would potentially expose Canadians to punitive U.S.

withholding taxes on income from their investments, including retirement income, of 30 per cent,” the Canadian Bankers Association said in a statement.

Perrin Beatty, a former federal revenue minister who is now president and CEO of the Canadian Chamber of Commerce, warned that compliance would be “exceptionally costly” for banks. “It’s intrusive in terms of people’s property,” he said.

Canada is the last Group of Seven country to reach a FATCA implementation agreement. The agreement modifies the existing Canada-U.S. Tax Convention.

“FATCA implementation is critical to combatting international tax evasion and promoting transparency,” said Robert Stack, Deputy Assistant U.S. Treasury Secretary. “The agreements clearly demonstrate the considerable international support behind FATCA and we are proud to lead the global charge on this pressing issue.”

With files from Bill Curry