



## THE GLOBE AND MAIL

December 2, 2011

### U.S. taxman to go easy on American residents in Canada

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From Friday's Globe and Mail

*After protest from Ottawa, ambassador says IRS will institute new rules that will waive penalties for people filing late*

Americans living in Canada who've neglected to pay their U.S. taxes are getting a big break from Uncle Sam.

The U.S. Internal Revenue Service is poised to waive potentially massive penalties for Americans who agree to come clean and don't owe any taxes, The Globe and Mail has learned.

The new rules will be announced within weeks by the IRS, according to David Jacobson, the U.S. Ambassador to Canada, who has been swamped with complaints from anxious Canadians.

"What the IRS is saying here is that if ... you don't owe taxes to the U.S., and you file your return and they show you don't owe taxes, there aren't going to be any penalties for having filed late," Mr. Jacobson said in an interview Thursday.

Fears of a looming U.S. tax crackdown has caused a wave of angst among the roughly one million Americans living in Canada. Many of them long ago stopped filing, assuming they owed no tax.

Unlike most countries, the United States requires its citizens to file annual tax returns regardless of where they live and work. Many are now worried they'll be hit with punishing penalties as a result of recent U.S. efforts to expose citizens hiding assets in offshore tax havens.

Every year, Americans must also report all their foreign bank, brokerage, mutual fund and pension accounts. And by 2014, Canadian financial institutions will have to identify accounts held by U.S. citizens to the IRS.

"We had an obligation to make our situation clear," Mr. Jacobson explained. "What they have done is clarify what's going to happen with innocent folks who didn't know their obligations and are now going to try to comply with the law."

Even Mr. Jacobson acknowledged the penalties for not filing can be "draconian," even for "typical" Americans in Canada who owe nothing because Canadian taxes are typically higher.

"Our intention was not to abscond with some innocent grandmothers' savings," he said. "From where I'm sitting, it's going to take care of the problem I was most concerned about ... which is that people just didn't know they were supposed to do this."

Failure to file so-called Foreign Bank Account Reports can result in penalties of \$10,000 (U.S.) a year for every account - fines that can quickly reach hundreds of thousands of dollars. In some extreme cases, the IRS can seize up to half the contents of accounts. Neglecting to file certain tax schedules also triggers fines.

Mike Vance, a 26-year-old doctor from Nanaimo, B.C., who moved to Canada as a child, said the partial amnesty is good news. But he said he no longer trusts that the United States won't come after his assets in the future as the country struggles to deal with its massive debt.

"I'm using this as a warning sign," explained Mr. Vance, who recently began the complex process of renouncing his U.S. citizenship. "I'm just starting out as a young doctor and going to have a fair bit of money invested in Canada."

Finance Minister Jim Flaherty, who repeatedly complained about the problem, said he was "happy" with the IRS policy shift.

"We told the U.S. that the vast majority of Canadians targeted were honest, hard-working and law-abiding individuals and they listened," Mr. Flaherty said in a statement. "It's a victory for Canadians and a testament to our positive working relationship with our American neighbours."

The policy shift will come in the form of new guidance from the IRS, expected to be issued before the end of December. U.S. officials said the statement will make it clear that:

- If a U.S. citizen files tax returns late and owes no taxes, there are no penalties for failure to file.
- U.S. citizens who were unaware of the bank account reporting requirement can file previous reports now, along with a statement explaining why they're late. No penalty will be imposed if the IRS determines that there is reasonable cause.
- Individuals who took part in earlier amnesty programs this year and in 2009 can reapply and get back penalties already paid.

Accountant Kevyn Nightingale, a U.S. tax specialist with MNP LLP in Toronto, said the changes are "fabulous news" and "a reasonable response" for Canadians unwittingly caught in the crackdown.

But he said it remains unclear how many years of back taxes are covered, or how professionals and consultants who often incorporate their businesses in Canada will be treated. U.S. officials would also not say what would happen to people who owe relatively small amounts to the IRS.

Nor does the change end the concerns of Canadian financial institutions, which complain they'll face massive costs trying to track all their U.S. account holders. Mr. Flaherty has warned that the new U.S. bank reporting rules, slated to come in 2014, could violate Canadian privacy laws.

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