

Standing Committee on Finance (FINA)

Pre-budget consultations 2012

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Responses

1. Economic Recovery and Growth

Given the current climate of federal and global fiscal restraint, what specific federal measures do you feel are needed for a sustained economic recovery and enhanced economic growth in Canada?

The US government's Foreign Account Tax Compliance Act will burden the Canadian economy and all taxpayers dearly in terms of compliance costs and privacy, whether the banks report directly to the IRS or through the Canadian government. Parliament should forbid the implementation of FATCA, enacting substantial fines against banks for revealing account information to the IRS or any other foreign tax agency. The Government of Canada should provide a complete examination of what an intergovernmental agreement with the US on FATCA will cost the Canadian taxpayer. US citizenship based taxation, by taking from the wealth and retirement savings of US persons in Canada, directly takes from the Canadian economy, and more greatly exposes Canadians with US citizenship to financial hardship and makes them less able to contribute to the Canadian economy.

2. Job Creation

As Canadian companies face pressures resulting from such factors as uncertainty about the U.S. economic recovery, a sovereign debt crisis in Europe, and competition from a number of developed and developing countries, what specific federal actions do you believe should be taken to promote job creation in Canada, including that which occurs as a result of enhanced internal and international trade?

Canadians considered US persons will see their ability to compete in domestic and international business negatively affected by US taxation and FATCA. IRS and FATCA reporting requirements increase the cost of doing business and expose the companies they are involved in to compliance issues that citizens of other countries or ordinary Canadians don't. Certainly, as in the case of my husband's business, and any cross border business, the FATCA withholding of funds by either Canadian banks or the US government will effect job creation in Canada.

3. Demographic Change

What specific federal measures do you think should be implemented to help the country address the consequences of, and challenges associated with, the aging of the Canadian population and of skills shortages?

For various reasons, parts of Canada are experiencing a shortage of qualified people to fill jobs. Americans would be a good fit for Canada, but problems will naturally arise due to the US's policy of extraterritorial taxation, making these workers less desirable than those from other countries. The Canadian government must make every effort possible to persuade the US to abandon its policy of citizenship-based taxation in order to make American workers less impeded when competing for jobs and business opportunities abroad. The taxation of US persons in Canada threatens the economic security and independence of those citizens by taking from their savings through taxes, penalties and the high cost of compliance. With Canada's aging population, it is of increasing importance that individuals are able to sufficiently save in order to supplement the government plans that are available. When the US government penalizes through taxation, the ability of US persons to contribute to even some of Canada's mandatory and voluntary retirements savings opportunities, US persons are left vulnerable and less able to contribute to the Canadian economy in old age and will potentially place

more of a burden on Canadian government subsidies. The Canadian government must examine what the cost will be to Canada's economy when US persons, unable to contribute to RRSP's, PRPP's, TSFA's, and RDSP's, are less able to contribute to the Canadian economy or cover the costs of their own care in old age.

4. Productivity

With labour market challenges arising in part as a result of the aging of Canada's population and an ongoing focus on the actions needed for competitiveness, what specific federal initiatives are needed in order to increase productivity in Canada?

Along with creating two distinct classes of Canadians, the US's extraterritorial taxation laws and FATCA will also create two distinct classes of US persons in Canada. The productivity of all US persons in Canada will depend in which class he or she falls. The Canadian government should examine how those with US citizenship who can remain undetected as US persons in Canada will be given an unfair advantage over US persons who are not so fortunate, those with US birthplaces on their identification, those already known to be US citizens, or those who if asked whether they are US persons choose to answer honestly.

5. Other Challenges

With some Canadian individuals, businesses and communities facing particular challenges at this time, in your view, who is facing the most challenges, what are the challenges that are being faced and what specific federal actions are needed to address these challenges?

In my opinion, Canadians who are deemed "US persons" face the greatest challenge of any group of Canadians. There are by estimates 1M Americans living in Canada, or almost 3% of Canada's population. A significant portion of the population, such as we are, cannot help have an influence on Canada's economy. The recent actions of the US government against its citizen's living in Canada have been life altering for many. Many US persons and their families feel under siege and worry tremendously about their future, resulting in a large number of Canadians adversely affected by the actions of the US. Canada should use its seat at the UN General Assembly to denounce United States extra-territorial taxation as a violation of the Universal Declaration of Human Rights and as a violation of the sovereign rights of other nations to have exclusive rights to tax within their own borders. With this, the Government of Canada should explore the allocation of funds it would need to make a legal challenge to the USA's extraterritorial overreach into Canada and the taxation of its non-residents in Canada. It would be valuable to examine whether the US policy of taxing its citizens abroad may in the long run cost the Canadian government more than if the Government of Canada was to invest in negotiating an end to citizenship based taxation now, and if in fact it could be achieved through treaty negotiation or through the courts. The Canadian government must use whatever means at its disposal, diplomatic or through the courts, to persuade the US government that its policy of taxing its citizens abroad is harmful to those citizens, and will cost the US government more in the long run by continuing to do so. Barring that achievement, the Government of Canada should also make significant effort to renegotiate the Canada-US tax convention to better achieve reciprocity between the two nations. Through its "Last in Time Rule", US has already explicitly violated the treaty both in letter and spirit. This is not acceptable in any future agreement. Canada should insist that the US inform Canada of how much tax revenue is being collected from Canadian sources from Canadian residents. In a new treaty, Canada should insist that income that is purely Canadian be taxed solely in Canada, regardless of the amount. Parliament should create a commission by which to study the negative effects of US taxation on Canadian residents and create various means of reciprocity for the US to comply with by paying compensation for those effects. Both the US and Canadian governments must make efforts to educate US persons in Canada of their US tax obligations. The IRS has the responsibility, duty and obligation to reach out to US persons

living abroad to make filing requirements discoverable and known to those who are required to make them. The IRS seems to have deliberately ignored their citizens living abroad in its education and outreach efforts, when in fact these groups should have been the primary audience. Accepting this, should the Canadian government be unable to make a compelling argument for the US to invest in responsible and adequate means to educate its citizens, the Canadian government itself must step up to do so in order to protect its citizens from the potentially life altering consequences through the actions of the IRS. The Canadian government should be informing US persons in Canada of which measures our government is taking to protect their rights as Canadians or permanent residents. Finally, the Government of Canada must give consideration to the long-term effect its permanent residents and citizens with US tax and reporting requirements will have on the economic stability and tax base of Canada. Eventually, Canadian immigration authorities may need to recognize that US persons seeking residence here have inherently divided loyalties forced upon them by US tax policies, therefore becoming potential liabilities to Canada. As a result, it may become necessary for the Canadian government to restrict US persons from seeking permanent residency and citizenship in Canada.