Regarding Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures. Part 5 (Clauses 99 to 101)(FATCA):
I am writing to oppose the ratification and enablement of the foreign US domestic law FATCA within Canadian's sovereign borders.

I strongly oppose the FATCA IGA, and any Canadian legislation being enacted to enable and enforce FATCA IGA; "Between the Government of the United States of America and the Government of Canada to Improve International Tax Compliance through Enhanced Exchange of Information under the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital"

Such a law and agreement should not be written to apply to Canadian citizens and those who are permanent residents, in Canada.

I refer you to these resources as support for my opposition to Bill C-31 Part 5 (Clauses 99 to 101)(FATCA) :
See 'Submission to Finance Department on Implementation of FATCA in Canada' Allison Christians, McGill University - Faculty of Law and Arthur J. Cockfield, Queen's University -Faculty of Law; March 10, 2014
at http://ssrn.com/abstract=2407264 http://dx.doi.org/10.2139/ssrn.2407264 and by the same authors; 'How the U.S. pulled off the great Canadian privacy giveaway' Globe and Mail, Apr. 10 2014 http://www.theglobeandmail.com/globe-debate/how-the-us-pulled-off-the-great-canadian-privacy-giveaway/article17916327/

I am also submitting here my own comments and objections to the signing and implementation of the FATCA IGA with the United States, and ANY associated proposed legislation - via Bill C-31, or any other bill enacted in Canada which would enable the IGA and give it the force of law and implement it in Canada - now and forever. I object in the strongest possible terms to my federal government changing Canadian laws and burdening Canadian citizens, taxpayers and legal residents with the unacceptable goal of appeasing a foreign government's extortionate demands made via threat of substantial and confiscatory economic penalty.

This IGA, and the legislation that Bill C-31 proposes to enable it is an offense to the Charter of Rights and Freedoms and our Constitution. It is unacceptable that a sovereign Canada should even consider changing Canadian laws and abrogating Canadian rights and freedoms, and subverting Canadian values in order to appease the US in this witchhunt in which it seeks to by any means, extract assets out of the Canadian fisc and divert them to support the irresponsible US domestic debt. No other country except the US and Eritrea tax on this flimsy basis of national origin, birthplace or parentage - without any economic relationship. You well know that those directly affected are all law abiding Canadian taxpayers - who have paid taxes to Canada in full. You well know that many were born Canadian citizens, and inside Canada's borders, the Master Nationality rule means that their status as Canadians trumps any claim that a foreign nation may make from afar. Permanent Residents are also Canadian taxpayers, and are also protected by the Charter and our Constitution. Everyone in Canada; those whom the US can claim as "US taxable persons", and those it cannot, will pay for this Made-in-the-US law with our hard earned Canadian tax dollars, and our financial (and many non-financial) institution accountholder fees.

Canada receives nothing in return, except the suspension of economic sanction for as long as the US is satisfied - or until it demands further concessions. As you well know, the US reserves the right to change the terms of any agreement or treaty such as the Canada-US Tax Treaty without recourse or consensus by the other signatory - subject to US laws enacted later in time which will supersede any current terms.

What is the cost of implementing FATCA and bending to foreign US demands? Canadian citizens and taxpayers have never been provided with such an analysis. No cost/benefit analysis has ever been shared with Parliamentarians or with Canadian citizens and taxpayers. No free, informed and comprehensive debate has ever been had on the wisdom or costs of bowing to the US by enacting FATCA inside Canada. Freedom of Information Requests by several MPs and Canadians regarding the content or even the existence of any consultations or opinions provided to the federal government by federal departments (such as the CRA, the Justice and Finance Departments) have resulted only in heavily redacted documents or a claim that even acknowledging any such opinion is covered by attorney client privilege.

The legislation to enable this US law on Canadian sovereign soil is being hidden inside an omnibus bill rather than being introduced and debated on its merits. We and our democratically elected representatives are to be bound forever to the whims of a

foreign power by the bill and the IGA it enables - in a shameful manner which consciously and deliberately subverts the democratic process.

Canada's federal government, who is tasked with a solemn fiduciary duty and a sacred duty of care to protect and ensure the wellbeing of ALL those that live within its borders will turn over to a foreign government; the personal and financial information of law abiding citizens and residents - to the foreign IRS and US Treasury, and make our native data subject to the complete lack of recourse, accountability and transparency that the US FATCA, the US Patriot Act and US Homeland Security laws demand. It makes no matter that the CRA is to be an intermediary, the end result is the same: once the data crosses into the US, Canada, the CRA, and the Canadian owners of the data and of the legal, local, already CRA-taxed assets in question will have NO control over how and where it is stored, shared, disseminated and used. In Canada, our Charter, our Constitution, our social values and our Canadian laws should reign supreme over US interests and US domestic laws. Anything else is a surrender of the sovereignty and autonomy of Canada to a foreign power.

Bill C-31Part 5 (Clauses 99 to 101)(FATCA) and the FATCA IGA have NO mechanisms whatsoever for recourse, redress, and recompense in cases of personal and financial data mistakenly divulged which properly belongs even to those Canadians who have NO legal obligation to the US, and no even remote relationship to that country. The legislation proposed in Bill C-31 provides for no remedy or recourse. And, will only add to the already glaring deficiencies in the current Canada-US tax treaty that this IGA and legislation purports to build on - which already allows for several glaring instances of US extraterritorial and punitive double taxation on Canadian mutual funds (as PFICs), Canadian registered accounts, our Canadian principal residence, and other egregious and arrogant extraterritorial US tax claims on the legal, local, Canadian made and Canadian owned assets of Canadian citizens and residents.

Our Canadian sited and owned data is to be automatically seized and exported and this process enforced under Bill C-31 and the FATCA IGA despite the absence of any evidence of any crime under Canadian law. Canadians have the right to be treated as innocent before being proven guilty. This legislation enforces the reverse - the automatic treatment of our data as if guilt is assumed before the fact.

Even the OECD efforts towards a system of common reporting - which Canada has indicated it is in accord with - has repeatedly made a point of noting that it will base such a system on the global norm of RESIDENCE based taxation, and NOT on the 'peculiarly unique' extraterritorial US status based one. The term and definition of 'US taxable person' has no equivalent or force in Canadian or any other laws other than that of the US. The US has no right to impose its domestic laws on Canada or the globe. Particularly by economic sanctions which may very well be illegal under the WTO and NAFTA frameworks.

Bill C-31 Part 5 (Clauses 99 to 101)(FATCA) thus is in direct contradiction to the OECD system that Canada has stated that it intends to support.

1. FATCA is a Made-in the-US law created solely to serve US domestic interests - to be enforced on the rest of the world by threat and coercion. As such, FATCA was never intended nor designed to provide any benefit what-so-ever to Canada or any other country. It is not and was never intended to be a mutually negotiated bilateral treaty entered into between equals, and US law does not treat it as such. The US IRS and Treasury do not have the power in and of themselves to enter into international treaties and bind the US to any reciprocal information exchange. Currently the 2015 US budget proposal includes a provision to alter that and to require SOME quasi-pseudo 'reciprocal' reporting by US Financial institutions, but, just as one example of a hurdle, the Florida and Texas banking associations are engaged in a lawsuit to block any such reporting, and it is exceedingly unlikely that the US Congress and Senate will agree to disadvantage US banks, incur a flight of capital from offshore investors in the US financial system, and provide any reporting equivalent to that which the US is demanding of ALL other countries under the provisions of FATCA.

Professor Allison Christians of McGill University refers to any potential 'reciprocal' reporting by the US under the FATCA IGAs as 'aspirational'. That in my opinion is too kind a term. The US Congress had no intention of reciprocation in any form when FATCA was legislated, and has not made any changes to it that would change that.

There is NO benefit to Canada - other than the absence of punitive and confiscatory 30% withholdings imposed on US source income. The FATCA IGA does not change that this is NOT an agreement between equals. When one entity unilaterally demands subordination from another - under significant coercive threat of harm, we usually refer to that as 'extortionate'. I object to any changes to Canadian law which enshrines US law at the expense of Canada and Canadians - especially one which has as its basis and method - coercion and extortion.

2. All treaties with the US are uniformly subject to the 'last in time rule' which allows

for any subsequent US laws to override and supersede any and all terms of treaties the US enters into. ALL tax treaties with the US contain the saving clause - which elevates the US right to tax those it defines as 'US taxable persons' to be taxed no matter what the terms of the agreements it enters into - even if double taxation results. ALL those agreements, including the current US Canada Tax Treaty and the FATCA IGA are subject to unilateral change by the US - without requiring any consent by Canada, and without any notice. This has already recently occurred with the US Obamacare adjunct tax imposed on the investments of those abroad who the US claims as 'US taxable persons'. The US did not give Canada notice of this, and did not exempt those in Canada - despite that it constitutes double taxation. There is no remedy under the existing tax treaty. Those in Canada barely escaped being exposed to the FULL Obamacare tax.

3. The FATCA IGA does not relieve those affected in Canada from existing double taxation on ALL Canadian held registered accounts such as the TFSA, RESP, RDSP, and RDSP. They are all still deemed by the US to be 'taxable foreign trusts'. They are all still reportable by affected individuals on the FATCA form 8938 and the Bank Secrecy Act FBAR Form (over applicable aggregate thresholds). RRSPs and RRIFs are only exempted from US taxation with scrupulously correct annual reporting for every year of their existence on Form 8891. Otherwise, they are not exempt and US tax will be assessed - as well as potential penalties. The FATCA IGA and Bill C-31 Part 5 (Clauses 99 to 101)(FATCA) does nothing to change that.

4. The US system of citizenship/nationality/USparentage status-based taxation is imposed extraterritorially on people with NO economic connection whatever to the United States; which is a singular departure from the international and global norm of taxation based on ACTUAL residency, (not the fictive 'residency' the US creatively presupposes all those abroad with a long ago US birthplace, US parentage, past naturalization or greencard (even if expired) or substantial presence to have). Even the 'Common Reporting' currently contemplated by the OECD (with Canadian participation) specifically underscores that it will be based on residency and NOT on citizenship or quasi-citizenship status - a direct reference to and rejection of US exceptionality.

5. Parentage, national origin and birthplace is not an acceptable, logical or just basis for taxation, nor is it the international norm. Taxation based solely on citizenship, birthplace, parentage or any similar status is not practiced by any other country in the world - excepting the failed state of Eritrea (which has been roundly condemned for the practice by Canada, the US and the UN). This places the US in automatic conflict with Canada's system, and subjects Canadian citizens and permanent residents claimed by the US as 'taxable persons' at a significant disadvantage and exposes them to significant instances of double taxation, complex, costly and labyrinthine reporting

demands and confiscatory and grossly disproportionate penalty burdens. Enabling FATCA on Canadian soil through legislation lends legitimacy to the extraterritorial US tax system and elevates it over the norms of Canada (and the rest of the world). Worse, it does so on Canadian soil - and subjects ALL Canadians and Canadian institutions to a US law and US system of taxation.

Canadian citizens have the right to expect and to demand that Canada not give precedence to a foreign law on sovereign and autonomous Canadian soil. Thus, any FATCA related enabling legislation in Canada - as proposed, enshrines discrimination based on national origin and parentage - in conflict with the rights and protections guaranteed by our Charter and Constitution. This applies to Canadian citizens (whether by Canadian birth or naturalization) AND equally to Canadian permanent residents. This makes FATCA enabling legislation both unlawful and unacceptable.

6. Those in Canada thus burdened face US taxation demands which are already NOT addressed in the current terms of the US Canada Tax Treaty, and will strain the Canadian social safety net, which the FATCA IGA and the proposed enabling legislation will do nothing to relieve this unconscionable burden:
- for example, there is already US capital gains tax imposed extraterritorially on the sale of Canadian family homes belonging to those the US deems to be 'US taxable persons' - the nest egg many Canadians count on as their biggest investment - the eventual sale of which is intended to secure their longterm care in the years of retirement and disability before death. Any shortfall in the value of this investment due to US taxation will cast those affected prematurely into the care of their fellow Canadian taxpayers and the Canadian government.

- There is already US double taxation imposed on all Canadian registered accounts - our other significant opportunities to save for disability and for security - which the current treaty does nothing to relieve (excepting the treaty provisions to exempt RRSPs and RRIFs IF the requisite forms are filed religiously without fail or error over all the years the accounts exist.). Thus, if the FATCA IGA and enabling legislation 'builds' on the existing treaty, it is founded on an already shaky foundation which is already currently insufficient to protect Canadian citizens and taxpayers from US extraterritorial double taxation.

Thus, the Canadian government and Canadian taxpayers will be subsidizing the US tax base at the expense of all Canadians - and subverting Canada's goal of creating and maintaining economic security for members of Canadian society.

7. FATCA, the Intergovernmental agreement that Canada has signed, and any enabling legislation as proposed to implement FATCA in Canada is in essential conflict with the sovereignty and autonomy of Canada and Canadian citizens,

taxpayers and permanent residents. It subordinates our Canadian system of taxation and law to the US system and US laws. It requires that Canada and Canadians cede sovereignty and autonomy to accommodate a foreign power - at significant cost to all Canadians who will pay for the implementation through increased or diverted Canadian tax funds and government manpower needed to administer such a system FOREVER, plus the higher account fees levied by Canadian Financial institutions and the many NON-financial institutions that FATCA demands automatic blanket reporting from. FATCA reporting is so broad and so complex that to implement and maintain it will cost astronomical amounts of funds that could be better spent on government services to Canadians and better returns for Canadian accountholders and institutions.

8. The proposed enabling legislation does nothing to protect or exempt the personal and financial data of the many Canadian citizens who have NO legal or other relationship to the US, and NO US taxable status. They are the joint owners of accounts with spouses, children, parents and business partners who the US claims as 'taxable persons'. Being a joint account holder with an individual that the US claims does not negate one's Charter and Constitutional rights. It does not and cannot create a US taxable status where none exists, or create such an obligation where none exists. Therefore, since the proposed legislation does not exempt these jointly owned accounts from automatic FATCA reporting by FIs and NonFIs, it attempts to create a legal obligation where none can possibly exist. This is not only unacceptable, it is manifestly illegal and unconstitutional and a Charter violation.

9. The proposed FATCA IGA enabling legislation elevates US citizenship and US conferred status over Canadian citizenship and Canadian conferred status on Canadian soil and Canadian legal jurisdiction in conflict with the Master Nationality Rule, which provides that "… In terms of practical effect, it means that when a multiple citizen is in the country of one of his nationalities, that country has the right to treat that person as if he or she were solely a citizen or national of that country." (http://en.wikipedia.org/wiki/Master_Nationality_Rule).

10. The proposed legislation does nothing to provide recourse for errors in which those not subject to the US as 'US taxable persons' have their personal and financial date remitted to the US - subjecting it to the terms of the Patriot Act and Homeland Security laws. FATCA already provides for the wide dissemination and sharing of the data collected, which can be broadened as the US sees fit - without the agreement of the Canadian government or those affected. This would supercede and nullify any possible data and privacy controls and protections under Canadian law. There is no recourse for the inevitable errors and possibly data theft and identity theft. There is

also no provision for transparency or accountability - under Canadian or US law or accounting for and resultant harm as a consequence.

I urge you not to enable the FATCA IGA with changes to Canadian law or to enact any enabling Canadian legislation. I urge you to order a cost-benefit analysis, to share it with the Canadian public and subject it to a robust and free debate in Parliament and Parliamentary scrutiny on its own merits - not hidden inside an omnibus bill such as this one. I urge that any such legislation should be amended to exempt application to ANY resident of Canada.

Sincerely yours,
Kathryn Brock