

Comments concerning Bill C-31, IGA between Canada and the
United States

Submitted by

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Members of the Finance Committee;

I fear that I have apparently become a second-class citizen of Canada, and hope that you and the Government of Canada will assure me and many other resident Canadians that this is in fact not the case.

Concern #1:

Although The IGA signed with the U.S. on Feb. 5, 2014, does **not require** banks and other financial institutions to refuse or close accounts of Canadians suspected of being U.S. persons, or who do not comply with the demands of the IRS, this does not reassure me that such institutions **will not** discriminate against Canadians if they choose, and are permitted, to do so.

All Canadian citizens must receive equal protection under the laws of Canada. Canadian financial institutions, insurance, mortgage, and other institutions must be **prohibited** from imposing special treatment of Canadians based upon their place of birth, the birthplace of their parents or spouse, or any other description which is a prohibited ground for discrimination under Canadian law and the Canadian Charter of Rights and Freedoms.

Concern #2:

Banks that detect possible indications that an account-holder is a "U.S. person" should be required to notify the person concerned that they are about to pass their financial records to the IRS via CRA. The IGA describes several methods by which a bank, etc. may decide that the account of a Canadian account-holder who is a possible U.S. person does not need to be reported. This generally requires at least a Certificate of Loss of Nationality (CLN) and might also include IRS documents (from a Canadian citizen!) Since many Canadians had no idea that the U. S. considered them to be U.S. persons until recently (some may not realize this until they are actually contacted by a bank or the IRS), they might not have a CLN. Obtaining it takes a great deal of time, and must be authorized by the U.S. Department of State who, for their own reasons, might decline to issue it. A U.S. born Canadian must document their expatriating act, and must convince the U.S. that he or she did not perform this act for the purpose of avoiding U.S. taxes.

The act of applying for a CLN identifies the person to the State Dept. as someone who was at one time and possibly still is American, and this information is passed to the IRS. Therefore, even if a bank accepts this document as proof that they don't need to report the account to the CRA/IRS, the individual will still be subjected to harassment from the IRS.

They will also be harassed by the IRS to file U.S. tax forms for several previous years, even if their expatriating act was performed before the IRS requirement to document this act to the State Department was enacted. A Canadian-born Canadian citizen with one parent who was born in the U.S. will have a very difficult time proving his or her “un-American” status, even if he or she has never lived in the U.S. or claimed U.S. citizenship. Canadians who are defined **by the U.S.** as “U.S. persons” face many obstacles in attempting to live a normal life, raising a family, working, earning a living, and saving and investing Canadian funds in Canadian chartered financial institutions. Similar obstacles are not encountered by Canadians of any other ethnic group, national heritage, or parental origin, or spousal or business connection to a foreign country.

Concern #3:

I urge you to add the following amendment to any legislation enabling the implementation of the Canada-U.S IGA:

Notwithstanding any other provision of this Act or the Agreement, for all purposes related to the implementation of this Act and the Agreement, “US Person” and “Specified US Person” shall not include any person who is a Canadian citizen or legal permanent resident who is ordinarily resident in Canada.

Please ensure that the Government of Canada safeguards Canadian sovereignty and protects all Canadians, regardless of place or birth, ancestry, or other prohibited category of discrimination, against the violations of their rights and loss of security in Canada by a foreign power.

Thank you very much.

Roberta Swetlow