

Canada to relax rules on secret offshore accounts

Written by T. Rob Brown (aka Roberto Chocolate)

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□ **CRA to relax rules for confessing secret accounts**

GREG McARTHUR

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Tax collectors are set to relax the rules for confessing secret, offshore accounts, a move heralded by tax

lawyers as pragmatic and decried by critics as unfair to ordinary Canadians who have no choice about reporting their income.

For the past few months, the Canada Revenue Agency has been drafting new requirements for its

voluntary disclosure program, the partial-amnesty program that allows people and corporations to declare

income and avoid prosecution for tax evasion.

The changes will bring Canada more in line with the clemency program used in the United States, which

kickstarted a global race of taxpayers scrambling to come clean when it forced Swiss bank UBS to

release details on thousands of suspected tax evaders.

Although the agency declined to comment for this story, tax lawyers across the country say federal

officials have told them to expect a more lenient approach toward clients who want to bring back

fortunes from tax havens such as Switzerland and Liechtenstein and declare the money to auditors.

One law firm, Montreal's Spiegel Sohmer, has issued a newsletter to clients advising that 'CRA has

quietly let it be known that it has arrived at what appears to be its final decision concerning repatriation matters.'

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Sources say auditors will now only go back a maximum of 10 years when determining what the government is owed.

Previously, voluntary disclosure officers combed through the entire history of recently revealed funds, assessing penalties on interest that, quite often, had compounded over multiple decades.

'There's no question, the taxpayer's getting away with a lot,' said David Sohmer, a partner at the firm and one of the most vocal proponents of the new rules. Mr. Sohmer has repeatedly complained to federal officials that many of his clients - parents of baby boomers, and often, immigrants to Canada, he says - want to avoid leaving a financial mess for their heirs, but are repelled from using the program when they learn that the amount owing could nearly equal the value of their holdings.

'You can take a tough stance and say we're going to chop your hand off if you have money offshore. But what good is that if the money stays offshore? The politicians have to be pragmatic,' he said.

Under the new rules, someone who stowed away \$1-million in a Swiss bank account in 1995 would only be assessed on the interest and gains they had realized from 2000 until today. According to the Spiegel Sohmer newsletter, if the offshore funds date back more than a decade, 'it will no longer be necessary to explain the opening capital.'

But what's missing from the proposed changes is any sign that tax collectors are pursuing those accounts abroad as aggressively as the U.S.'s Internal Revenue Service, said Hugh Mackenzie, an economist who served as executive director of Ontario's Fair Tax Commission in the early 1990s.

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While it's true that the U.S. voluntary disclosure program has been more forgiving, the country has also wielded a much bigger stick, he said. Besides the investigation of UBS - which resulted in a \$780-million fine for the bank - U.S. prosecutors have also launched a criminal investigation into American clients of HSBC with accounts in Asia.

European countries have also gotten in on the act. As recently as Wednesday, German authorities raided

all 13 branches of Credit Suisse in a similar probe.

'What the Americans have done - they're not waiting for Americans to decide to bring some of the money back home again. They're going to the government of Liechtenstein and the government of Switzerland and basically saying, 'If you don't tell us who holds these accounts we're going to do bad things to you,' Mr. Mackenzie said.

'In that part of the forest, Canada is not exactly leading the way.'
By loosening standards for voluntary disclosures, the government is sending a message that there are two sets of rules for taxpayers, Mr. Mackenzie said. 'If you start with the premise that taxes owed are public property, it would be like if an ordinary guy saw three federally owned trucks parked on the street and stole all three of them, and then through his lawyer anonymously approached the government and said, 'Well, I'll own up to having stolen the trucks if you let me keep two of them.'

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Such an argument ignores the rigorous realities of tax collection, said Andre Rachert, a Victoria tax

lawyer, who also welcomed the changes. Not only will it encourage people to come forward, their funds

will be back in the domestic economy, which benefits all Canadians, he said.

'It's not only back taxes. It's future taxes you're going to get,' he said. 'We want the people in the system.'