

Canadians beware: The IRS might come after you: Alini

New tax tool could target Canadians

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Imagine this: You live in Canada, but have a source of income in the U.S., which you somehow neglected to disclose to the Canada Revenue Agency, and a U.S. debit or credit card, which you use to pay for some day-to-day expenses in Canada. If this is really you, you might be in trouble.

The scheme described above is the one some Norwegian citizens were reportedly using to shield part of their income from the prying gaze of the Norwegian Tax Administration. The NTA sniffed out the unusual Norway-based activity on their U.S. cards, but couldn't identify the account holders. In the past, that might have been the end of the story. In this case, though, the Norwegian government got the IRS to do something it had never done before: Use a "John Doe" summons.

A John Doe summons allows the IRS to seek out information about taxpayers whose identity is unknown. The agency needs court approval to proceed, but **John Doe summons** have become a popular tool in the U.S. fight against tax evasion, according to *Forbes* contributor Robert Wood. That's how the IRS forced UBS to turn over the names of U.S. taxpayers with Swiss bank accounts, and later busted Americans with tax-shelter accounts at HSBC in India. Now, it seems, the IRS is willing to use this powerful technique to help foreign governments pursue their own tax cheats, as well.

The CRA might well be next in line asking the IRS for the favour, says **Saul Abrams**, a tax lawyer at Calgary-based Moodys Gartner Tax Law. The legal basis for the issuance of a John Doe summons in the case of Norway, Abrams notes, was the bilateral tax treaty between the two countries, which requires mutual assistance in the collection of internal revenue. “There’s no reason to believe the U.S.-Canada treaty would not support a John Does summons,” says Abrams.

There are strict limits on how the IRS can use John Doe summons; “it can’t be a fishing expedition,” says Abrams. The CRA for example, couldn’t ask its American counterpart to look up all Canadian-owned accounts. There must be a reasonable suspicion that the unknown individual or group being pursued have sought to skirt the rules. Still, John Doe summons represent a notable escalation in the war against tax evasion. “They’re an upper level tool,” says Abrams, “it’s like using a missile, rather than a gun.” The IRS could soon be using that weapon to help the CRA’s go after Canadians.

It’s good news if it means the end of impunity for lots of high-level, sophisticated tax cheats, but Abrams is skeptical. “The anti-avoidance rules sometimes trap the innocent more than the they trap the bad actors,” he says. Unaware, honest Canadian taxpayers, he warns, could find themselves in hot water, too.