

# THE VANCOUVER SUN

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## Douglas Todd: 'U.S. persons' in Canada express fear and loathing of tax crackdown

Even people whose only U.S. connection is that they were born there are facing orders to pay taxes

BY DOUGLAS TODD, VANCOUVER SUN COLUMNIST    AUGUST 15, 2014



Beth Johnson, former mayor of Delta, became a Canadian in the 1970s and lost her U.S. citizenship. She considers the U.S. 'arrogant' for changing the law and making her an American citizen again without even asking if she wanted it.

Photograph by: Handout

"It's all just so confusing, along with being terrifying."

"There is a soul-crushing terror of being bankrupted from this injustice."

"In the eyes of the U.S., we are criminals living in Canada with so-called foreign bank accounts."

These are just a sample of the flood of anxious and angry feelings that people in Canada who retain U.S. citizenship or its near-equivalent have recently expressed in emails over an unprecedented American effort to catch tax cheaters in foreign countries. Many expressed contempt for the country they once considered their own.

Even while the U.S.-linked correspondents wanted their complaints to be registered, however, they pleaded their names not be published. They fear coming under the surveillance of U.S. intelligence-gathering agencies, including the Internal Revenue Service, the Federal Bureau of Investigation and Homeland Security.

The sense of outrage, loathing and emotional tumult displayed by people in Canada who have direct or indirect U.S. connections reverberates on at least three major websites devoted to the battle against the U.S. Foreign Account Tax Compliance Act, best known as FATCA.

Americans in Canada have written about experiencing emotional breakdowns, marital discord, depression and alcohol dependence on FATCA-protest websites such as The Isaac Brock Society, Maple Sandbox and the Alliance for the Defence of Canadian Sovereignty. Using pseudonyms, they have called Uncle Sam a "global bully," an "oligarchy" and a "desperate fading empire."

Their fury has been heating up since July 1, when the Canadian government brought into effect a complex agreement with the U.S. that requires roughly a million people in Canada who are considered "U.S. persons" to file U.S. income tax statements — or face severe penalties. While many Americans in Canada will not be out of pocket because of FATCA, many will be hit with extra costs, including capital gains on the sale of their Canadian homes.

Upset with what they see as the Conservative government caving into pressure from the U.S. government in its global quest to root out tax "cheats", a group of Canadian citizens this week launched a lawsuit in Federal Court alleging the legislation is unconstitutional.

Two Ontario women with roots in the U.S. — Gwen Deegan of Toronto and Ginny Hillis of Windsor — took the risk of attaching their name to the lawsuit, which was sponsored in part by the Alliance for the Defence of Canadian Sovereignty and is being spearheaded by noted Vancouver constitutional lawyer Joe Arvay.

Deegan, who moved to Canada when she was five years old and has never had a U.S. passport, called Canada's complicity with FATCA "a literal betrayal." She maintained the country in which she was born, but has no meaningful ties, is "plundering" her retirement savings with an "absurd law."

One Metro Vancouver man has also come forward with how appalled he is by the behaviour of the U.S. and Canadian governments, even though he's not a signatory to the lawsuit. James Hamilton, a 55-year-old BC Hydro engineer who lives with his family in Coquitlam, joins many in demanding to know how the U.S. can get away with being the only major country in the world that taxes people based on citizenship, not residency. Hamilton believes the U.S. is engaged in "a big money grab" since its inadequate banking regulations helped throw the world into a financial crisis in 2008.

He calls FATCA, which was instituted in 2010, "taxation without representation."

It's squeezing many expatriates to pay taxes to the U.S., he said, even when they won't receive any benefit from it.

"The U.S. is losing its dominance as a world power" and is irresponsibly causing untold hurt to an estimated seven million expatriates around the world, said Hamilton, who moved to Canada when he was 13 and became a Canadian citizen in 1991.

Until recently Hamilton didn't even realize the U.S. considers someone like him an American citizen, since several decades ago the U.S. didn't allow its citizens to have dual citizenships. In recent years, however, Americans in Canada have only been able to give up U.S. citizenship by going through an intimidating official procedure, which includes having their names posted on the Internet, possibly undergoing a criminal investigation, and filing five years of past U.S. tax statements. Hamilton is in the midst of the elaborate process, which is costing him roughly \$4,000.

The U.S. is highly unusual in regards to taxation. The vast majority of countries don't tax their citizens living abroad. For instance, Taiwanese citizens living and working in Canada with dual citizenship generally won't file tax statements to Taiwan unless they make money there. Instead, they pay Canadian taxes.

But the U.S. will tax American citizens wherever they are in the world.

FATCA caused a lawyer in England who advises Americans abroad, Suzanne Reisman, to say: "If I can compare it to romance, I say the U.S. is like (the jealous character played by Glenn Close) in the

movie, Fatal Attraction. Once they've got you, they never let you go. You have to renounce your citizenship, or you have to die."

Canada is not alone in acceding to U.S. demands to root out potential foreign sources of tax revenue. So far an estimated 80 countries have complied with FATCA.

Some noted U.S. tax experts, such as Robert Wood writing for Forbes magazine, credit FATCA with cleaning up offshore tax havens and numbered bank accounts — leading to billions of dollars in fines against banks around the world, including in Switzerland.

However, Elizabeth May, head of the Green party of Canada, who was born in the U.S. and moved with her family to Canada in the 1970s, calls FATCA "a global shakedown."

The MP for Saanich-Gulf Islands considers herself "100 per cent Canadian," even though she has never formally obtained the U.S. document that many FATCA-fighters now consider critical, called the "Certificate of Loss of Nationality."

Joining Victoria NDP MP Murray Rankin in denouncing the Canadian government's February decision to comply with FATCA, May said, "It never occurred to me that the U.S. government would retroactively try to claim me as a citizen." She believes she lost that unwanted status when she became a member of Parliament in Canada.

Trained as a lawyer, May is up for the battle.

"The U.S. sees itself as cop of the world. And it's losing that clout. The U.S. has long had the myth the U.S. president is the most powerful man in the world. So it's not surprising it believes its own myth. What's surprising is that the Canadian government won't stand up for the rights of Canadians."

How many people in Canada are effected by FATCA?

Canada's 2011 National Household survey pegs the number of people in Canada who were born in the U.S. at 316,000 (including 67,000 in B.C. and 32,000 in Metro Vancouver). But that's only a small portion of the people in Canada who are caught up in FATCA's sweep, which forces Canadian banks, upon pain of dire penalties since July, to pinpoint any client they have in Canada who the U.S. might consider a broadly defined "U.S. person."

"U.S. persons" not only include those with dual passports or those working in the U.S. The term may take in Canadian "snowbirds" who spend winter months in places such as Florida and Arizona. It snares Canadians who own a condominium in the U.S., have post-office addresses in the U.S., earn

revenue from U.S. sources or have other financial links to the country.

Not all Americans in Canada are upset by FATCA.

Ali Matheson, a prominent figure in the animation industry who frequently travels between Vancouver and California, has empathy for those struggling with FATCA. But she says many U.S. persons living in Canada are engaging in "wilful ignorance" when they act as if they didn't realize they had to file U.S. tax statements. Although Matheson came to Canada in 1998 and obtained dual citizenship in 2005, the North Vancouver woman has always hired accountants to work through the complications of both Canadian and U.S. tax regimes.

"It's a lot easier than denouncing your U.S. citizenship."

Even though Matheson joked she "doesn't walk around the room humming the U.S. national anthem" and said she finds it "very civilized" in Canada, she said, "I have a very healthy respect for Uncle Sam. You never mess with Uncle Sam. I learned that from an early age. I understand denial, but there's no use in denying Uncle Sam."

In light of FATCA, a former alderman and mayor of the municipality of Delta, Beth Johnson, is relieved she relinquished her U.S. citizenship years ago.

A proud Canadian who includes the phrase "ocanada" in her email address, Johnson became a Canadian citizen in the early 1970s and correctly assumed, at least for that time, that her formal commitment to Canada meant she had forfeited her U.S. passport. But then a U.S. Supreme Court challenge in the late 1980s led to a change in U.S. citizenship law.

"I find what happened next to be breathtakingly arrogant," Johnson said. "They (U.S. lawmakers) gave all of us our citizenship back — without asking us if we wanted it, or telling us that they did it. I didn't find out that I was once again considered a U.S.A. citizen until I applied for my Nexus card."

Preferring "kinder, gentler" Canada to the aggressive and individualistic U.S., Johnson greatly appreciates her adopted country, which she says balances personal freedoms and capitalism with respect for government agencies and "the needs of all."

For his part, Harrison can't quite figure out why Washington, D.C., legislators would want to alienate roughly seven million people around the world who retain some degree of connection to the U.S.

"Normally, you wouldn't think of dual citizenship as a negative thing. The U.S. should want its expatriates to be ambassadors for the country, to improve trade if nothing else. But FATCA is making

people around the world want to give up their U.S. citizenship. It's doing the opposite of creating ambassadors. It's making people hate their own country."