TAXCHAMBERS LLP NEWSLETTER

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The Common Reporting Standard (CRS)

The Common Reporting Standard (CRS) is a new international standard for the automatic exchange of financial account information between tax authorities of over 100 countries. These include traditional Canadian trading partners such as Hong Kong and The United States (through FATCA), along with the tax havens such as Liechtenstein and Cayman Islands: https://www.oecd.org/tax/transparency/AEOI-commitments.pdf.

Will international politics prevent disclosure?

Not at all. After all, all countries have a strong interest in preventing tax evasion. Iran and Iraq are not on the list of participating jurisdictions, but the Russian Federation is.

All information in respect of accounts in banks and other financial institutions held by individuals and entities identified as Canadian tax residents will be collected and sent to the CRA by tax authorities in over 100 countries. It is expected that the disclosure will be provided by over 80,000 banks, financial institutions and financial intermediaries in these countries.

Canada will begin sharing the banking and financial information in 2018 and will start collecting its share in July 2017.

What information is collected and shared?

It is expected that CRA will collect the following information:

- the name, address, entity's tax identification number, and certain financial information about the account,
- the name, address, taxpayer identification number and in certain cases the date of birth of the individual(s) controlling the entity.

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What does this mean for your Canadian clients?

If your client is a Canadian tax resident with undeclared foreign bank accounts (held directly or through a foreign entity), the CRA is likely to receive this information and identify the holder in 2018. This should be expected if the bank identified the account holder as a Canadian/US resident.

What if my client set up a foreign entity (a corporation or a trust)?

The information on the controlling individuals will still be collected and reported. Remember, it's not the entity's ownership but rather the control over the account that is being reported. In other words, if the client has a foreign corporation with a nominee director and has a foreign bank account under the corporation's name where he is a signatory (everybody likes to keep their money close!), this information is intended to be collected and reported.

What this means for your non-Canadian clients with a bank account in Canada?

A Canadian bank will likely identify the client as a non-resident and will be obligated to obtain his/her tax residency and local tax identification number. The refusal to provide this information will result in the closure of the account and incomplete reporting to the CRA and foreign tax authorities through the CRS.

What's Next?

If the CRA identifies a particular taxpayer as having a bank account overseas, it will likely serve as a trigger for further inquiry with respect to the account or an audit.

CRA may compare its existing records for foreign property reporting (T1135), foreign affiliate reporting (T1134), distributions from non-resident trusts (T1142), reporting of cross-border cash flows provided by the banks (since January 1, 2015), etc.

CRA has plenty of tools to launch a targeted investigation. We have over 90 tax treaties and information exchange agreements which provide for a very comprehensive exchange of corporate and individual tax information. The CRA also has access to all cross-border cash flow information over $10,000 that it receives from FINTRAC.

My Client has an unreported foreign bank account or foreign assets. What's Next?

The Voluntary Disclosure Program is still available to report foreign assets, foreign sourced income and gains and file missing information reports (T1134, T1135 and T1142).

In 2016, the Offshore Compliance Advisory Committee recommended that penalty free disclosures be abolished in certain cases, including avoidance transactions undertaken or continued after implementation of the Common Reporting Standard. This has been proposed as recognition that the affected taxpayers have had an opportunity to disclose existing non-compliance or enough general awareness to appreciate the possible consequences of non-compliance.

Remember: any enforcement action by the CRA may disqualify the taxpayer from qualifying for the participation in the VDP.

Taxpayers may be eligible for relief when the following four conditions are met:

- **Voluntary**, and not as a result of CRA enforcement action;
- For a year **more than 1 year past due**;
- Must **involve a penalty**; and
- be a **complete disclosure of all outstanding issues**.

TaxChambers LLP can help taxpayers, their financial advisors and accountants resolve any issues that may arise as a result of these new reporting requirements.

If you require more assistance, please contact our lawyers at:

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