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Subject: Suggested Amendment to FATCA IGA Implementation Act

Re: *Canada–United States Enhanced Tax Information Exchange Agreement Implementation Act (for Foreign Account Tax Compliance Act Intergovernmental Agreement) which is part of Budget Implementation Act (BIA)) C31.*

I request the Clerk of the Finance Committee to submit a proposed amendment and a recommendation for removal of Section 4 of the Act to the Finance Committee.

I propose the following amendment to the Act:

“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.”

The following are some of the reasons I am proposing this amendment.

CITIZENSHIP AND FATCA

Forty one years ago today on April 27, 1973, I became a proud and patriotic Canadian citizen. When i swore my Oath of Allegiance and signed my renunciation oath of American citizenship at the age of 22, I knew I would honour my commitment for life.

For four decades, I believed the words on my Canadian citizenship certificate. Lynne Swanson "is a Canadian citizen and, as such, is entitled to all the rights and privileges and bears all the responsibilities, obligations and duties of a Canadian subject."

I have met all of my "responsibilities, obligations and duties of a Canadian subject."

For all these years, I believed I had all the same rights as all other Canadians under Canada's laws and Charter of Rights and Freedoms. On February 5, 2014, I realized how wrong I was. That was the day my Canadian government announced it had signed over my rights as a Canadian citizen to a foreign government simply because I had been born there.

Many of us came to Canada as young adults decades ago and became naturalized Canadians because of our great love of this country. Many (including me) were told by US Consulate we were "permanently and irrevocably" relinquishing US citizenship by becoming Canadian

citizens. My own oath required me to formally renounce US citizenship. We have lived our lives as Canadian citizens for three, four, five or six decades. Now as we are in or nearing retirement, the United States is trying to seize records of our financial assets which were entirely earned, saved, invested and taxed in Canada. With this Act. Canada is preparing to help them to do that.

Others were born in the United States simply because their mothers were sent there to give birth. Some were born there when Canadian parents were temporarily studying or living there. These Canadian citizens have lived their entire lives as Canadian citizens only.

Others are dual American and Canadian citizens.

There are literally one million stories of Canadians affected by the FATCA Act.

With the FATCA Intergovernmental Agreement (IGA), the Canadian government told Canadian citizens and residents born in the United States we are second class Canadians. The government also told us long-standing Canadian laws can be changed with no regard for Canadian values to meet demands of a foreign government with the introduction of the Implementation Act.

Submissions, letters, e-mails, telephone calls and pleas of Canadians are all being ignored in this law.

MASTER NATIONALITY RULE

Under international law, the Master Nationality Rule requires that when a dual citizen is in the country of one of his two nationalities, that country has the right to treat that person as if he or she were solely a citizen or national of that country.

From the US Dept of State, 7 Fam 080, the formal and **OFFICIAL U.S.** Position.

“It is a generally recognized rule, often regarded as a rule of international law, that when a person who is a dual national is residing in either of the countries of nationality, the person owes paramount allegiance to that country, and that country has the right to assert its claim without interference from the other country.”

I and most other Canadians affected by FATCA give our "**paramount allegiance**" to Canada. In fact, many of us give our **only** allegiance to Canada. On behalf of one million Canadians and our families, I request that Canada "**assert its claim without interference from the other country**"--the United States.

CANADA DAY

FATCA becomes effective on July 1.

For over four decades, I have celebrated my Canadian citizenship on July 1. This year, I will weep at the betrayal of my adopted country to my country of birth.

CANADA REVENUE AGENCY and INTERNAL REVENUE SERVICE

The Canadian government claims privacy issues will be resolved by having banks report to Canada Revenue Agency who will share financial records of Canadians with IRS.

This does not in any way address privacy issues. Instead, Canadians born in United States will have private financial information reported to CRA that no other Canadians must have reported--i.e. total assets, account balances, transactions, account numbers and other personal identifying information.

This includes joint accounts held with Canadian born spouses or business partners. It also includes any signing authority a Canadian citizen or resident born in the US may have over financial accounts through employment, charitable, volunteer or other activities.

This sensitive information should not be given to the revenue agencies of either country. I am certain if other Canadians were required to submit such information to CRA, there would be outrage.

Passing that information on to a foreign government that admits it has an "epidemic" of identity theft" at the IRS is terrifying. In addition, US legislators have demanded FATCA information be provided to US national security and law enforcement for investigation of money laundering, terrorist financing, drug trafficking, corruption, fraud and other crimes and misconduct.

Once information is submitted to IRS, there are few controls in place to ensure privacy protection.

Finance Canada is aware of these and other issues, yet they signed an agreement allowing the Americans to seize information of Canadians with full cooperation of Canada Revenue Agency.

SUBMISSIONS

Please hear the voices of Canadians. I am attaching a copy of two submissions I made to Finance Canada, one made by law professors Allison Christians and Arthur Cockfield and one made by lawyer John Richardson and Dr. Stephen Kish.

Please read these.

Please request the other 400 pages of submissions that were made to Finance Canada from Canadians from across Canada. (I have requested copies of those, but I have been advised they will likely not be provided until after the Act is passed.)

UNPRECEDENTED LAW

This proposed legislation is unprecedented. It makes discrimination against one group of Canadians mandatory. It does this by overriding all other all other Canadian laws, wiping out decades of rights and protections for Canadians.

Inconsistent laws — general rule

4. (1) Subject to subsection (2), in the event of any inconsistency between the provisions of this Act or the Agreement and the provisions of any other law (other than Part XVIII of the Income Tax Act), the provisions of this Act and the Agreement prevail to the extent of the inconsistency.

As a patriotic Canadian citizen for 41 years, I never thought I would see the day when Canada would consider a law that would prevail over other long-standing Canadian laws of privacy, banking and human rights on the dictate of a foreign power.

Would Canada change its laws and capitulate to demands from China, Russia, India, Iran, Mexico or Eritrea for financial information on Canadians born in those countries? Why is Canada doing this to Canadians born in United States?

The implications of this are truly chilling for all Canadians and Canada.

In addition to the proposed amendment, I also recommend Section 4 of the Act be removed.

CHARTER OF RIGHTS AND FREEDOMS

Canadian constitutional scholar Peter Hogg has advised Finance Canada that a FATCA IGA like the one that was signed will not withstand scrutiny under the Charter of Rights and Freedoms. A copy of Mr. Hogg's submission is attached.

PLANNED LEGAL ACTION

Dr. Stephen Kish and I obtained a legal opinion from prominent constitutional lawyer Joseph Arvay. We did this with funds raised in six days from Canadians and people around the world. If this law is passed in its current form, Dr. Kish and I intend to commence litigation to ensure our rights under Canada`s Charter of Rights and Freedoms are upheld.

It is alarming that long-time Canadian citizens may be forced to fund raise from other Canadians to launch legal action against the very government that should be protecting us.

It is possible this legal action of Canadians against our own government could be avoided if my suggested amendment to the law is accepted.

SUGGESTED AMENDMENT

It is imperative MPs uphold the rights of all Canadian citizens and residents--regardless of where we were born.

This amendment would allow you to do that instead of sacrificing the rights of some Canadians to a foreign government. It would also allow Canada to meet the demands of FATCA while respecting the Charter of Rights and Freedoms.

PLEASE ADOPT THE PROPOSED AMENDMENT:

Please do the right thing. Please approve my proposed amendment.

Please also remove Section 4 of the Act.

Show Canada and Canadians we are all equal under this magnificent nation's laws. Uphold the laws of Canada and the words on my Canadian citizenship certificate.

Lynne (Marilyn) Swanson