

URGENT -- Questions to: Parliament of Canada Question 121, October 25, 2013 — Mr. Hsu (Kingston and the Islands) with regard to the implementation of the Foreign Account Tax Compliance Act (FATCA):

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=NoticeOrder&Mode=1&Language=E&Parl=41&Ses=2&DocId=6268900&File=9>

- (a) what steps has Canada undertaken to complete an Inter-Governmental Agreement (IGA) with the United States;
- (b) with what type of legal instrument will the government enact a FATCA implementation agreement;
- (c) will the government bring an IGA before Parliament and, if so, in what form;
- (d) what steps are in place to ensure parliamentary review of an IGA;
- (e) what studies have been undertaken as to whether an IGA can be implemented as an interpretation of the existing double tax treaty;
- (f) in what ways will the government involve Parliament in any process to amend interpretation of the double taxation treaty;
- (g) who is involved in the process indicated in (a);
- (h) by what criteria is the government evaluating any proposed IGA with the US;
 - (i) who established the criteria in (h),
 - (ii) on what date,
 - (iii) under what authority;
- (j) is a draft IGA currently being negotiated, and if so, what is the status of said negotiations;
- (k) when will the draft IGA be made public;
- (l) will the public be consulted for input on any agreement, and if so, by what means;
- (m) with which specific individuals and groups did the Minister of National Revenue consult regarding FATCA, and on what dates;
- (n) with which specific individuals and groups did the Minister of National Revenue consult regarding any IGA, and on what dates;
- (o) with which specific individuals and groups did the Minister of Finance consult regarding FATCA, and on what dates;
- (p) with which specific individuals and groups did the Minister of Finance consult regarding any IGA, and on what dates;
- (q) what studies and analyses has the Department of Finance undertaken with respect to FATCA;
- (r) what studies and analyses has the Department of National Revenue undertaken with respect to FATCA;
- (s) what analyses and studies have been undertaken as to whether the proposed FATCA regime constitutes an override of the existing double tax convention;
- (t) what were the conclusions of the studies in (s);
- (u) what steps is the government taking to ensure that, as a result of FATCA or an IGA, the US will not be allowed to impose higher taxes on Canadian persons than those agreed under the current convention;
- (v) what studies and analyses have been undertaken to determine whether Canadian citizens and residents are or will be denied financial services in Canada owing to US tax law in general and FATCA in particular;
- (w) what are the conclusions or recommendations of the studies in (v);
- (x) what mechanisms are in place to ensure that Canadian citizens and residents are not and will not be denied financial services in Canada owing to US tax law in general and FATCA in particular;
- (y) what measures will be taken to remedy denial of services to Canadians as a result of FATCA;
- (z) what studies and analyses will be undertaken to assess FATCA's impact on the availability of TFSAs and RESPs for dual US-Canada citizens;
- (aa) what are the conclusions of any studies in (z);
- (bb) what analyses and studies have been undertaken regarding whether the US definition of "resident" for tax purposes, and its impact on Canadians with dual status, is compatible with Canadian law, including the Charter of Rights and Freedoms;
- (cc) what analyses and studies have been undertaken regarding whether the US definition of "resident" for tax purposes, and its impact on Canadians with dual status, as will be enforced by FATCA or by an IGA, is compatible with Canadian law and, in particular, the Charter of Rights and Freedoms;
- (dd) what analyses and studies have been conducted with respect to FATCA's consequences upon Canadians who believed their US Citizenship had been relinquished;
- (ee) with respect to the studies referenced in (dd), what particular efforts has the government undertaken to ensure no violation of a Canadian's charter right would be occasioned by implementing FATCA or an IGA;
- (ff) what studies and analyses have been undertaken regarding the likely cost of FATCA implementation to
 - (i) Canadian private institutions,
 - (ii) Canadian individuals,
 - (iii) the government;
- (gg) how were the figures in (ff) arrived at, by whom, when, and in consultation with whom;

- (hh) what studies and analyses have been undertaken as to whether the likely cost of FATCA implementation to Canadian private institutions, Canadian individuals, and the government will be offset by the receipt of reciprocal tax information and Canadian tax law enforcement by the US;
- (ii) what analyses and studies have been undertaken as to whether the likely costs and benefits described in (ff) and (hh) are likely to be greater, lesser, or the same as under the current tax-information-sharing relationship with the US;
- (jj) what agencies, boards, tribunals, or commissions of the government have studied, interpreted, analyzed, or commented upon FATCA,
- (i) to what extent,
 - (ii) on what dates,
 - (iii) with what conclusion(s);
- (kk) what specific steps has the government taken to assess the privacy implications of FACTA;
- (ll) on what dates and with respect to what topics has the government met with the Privacy Commissioner to discuss FATCA or the effect of any IGA;
- (mm) broken down by province or territory,
- (i) on which dates and
 - (ii) with what individuals in the provincial and territorial governments did the government consult on the subject of FATCA;
- (nn) broken down by province or territory,
- (i) on which dates and
 - (ii) with what individuals in the provincial and territorial governments did the government consult on the subject of any IGA;
- (oo) does the government have the support of every province and territory with respect to any proposed implementation of FATCA, and what evidence does the government have that this support exists;
- (pp) has the Department of Justice developed any policy relative to the implementation of an IGA and, if so, (i) how was it developed, (ii) in consultation with whom, (iii) to whom was it provided, (iv) who requested it, (v) what were its findings, conclusions, and recommendations;
- (qq) how will the government monitor and enforce compliance by Canadian institutions with FATCA requirements;
- (rr) how will the government monitor and enforce regulatory oversight of the bank due-diligence efforts required by FATCA and its implementation, including
- (i) by whom
 - (ii) how,
 - (iii) using what standards such efforts will be evaluated;
- (ss) what penalties exist and what penalties does the government intend to establish for failure to adhere to standards indicated in (rr);
- (tt) has the Department of Justice or the Department of Revenue developed any legislation or guidance relative to the implementation of an IGA or FATCA and, if so
- (i) how was it developed,
 - (ii) in consultation with whom,
 - (iii) to whom was it provided,
 - (iv) who requested it,
 - (v) what were its findings, conclusions, and recommendations;
- (uu) has the Department of Justice reviewed any proposed legislation relative to the implementation of an IGA;
- (vv) with what individuals or groups has the Department of Justice consulted relative to the implementation of FATCA;
- (ww), what steps have been undertaken to assess regulatory changes to federal institutions at the provincial and territorial level that would be required as a result of FATCA or any IGA;
- (xx) what steps has the Canada Revenue Agency taken with regard to developing or implementing FATCA or any IGA;
- (yy) what tax information does the Canada Revenue agency currently share with the US,
- (i) when,
 - (ii) under what circumstances,
 - (iii) in what form;
- (zz) has the government assessed whether FATCA and its implementation would require changes to the ways in which tax information is currently shared with the US;
- (aaa) what has the government sought, or does the government plan to seek from the US, in terms of reciprocal information sharing as a result of the FATCA or IGA negotiations, and what is the current status of negotiations on this point;
- (bbb) what measures are in place to ensure that no privacy laws or policies are violated in any transfer of information contemplated in (aaa); and
- (ccc) by what process(es) and on what dates will any IGA and its enacting legislation be vetted for compliance with the
- (i) Constitution Act, 1867,
 - (ii) Canadian Charter of Rights and Freedoms,
 - (iii) Canadian Bill of Rights?

URGENT -- Questions to: Parliament of Canada Question 121, October 25, 2013 – Mr. Scott Brison (Kings-Hants) October 28, 2012, Q127, with regard to the United States (U.S.) Foreign Account Tax Compliance Act (FATCA):

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=NoticeOrder&Mode=1&Language=E&Parl=41&Ses=2&File=11>

- (a) when was the government first made aware of this legislation and how;
- (b) what steps has Canada taken since the legislation's introduction in the U.S., broken down by year;
- (c) during the consideration of this legislation in the U.S., did Canada make any representations to the U.S. government and if so, (i) when, (ii) by whom, (iii) to whom, (iv) on what dates, (v) by what authority (vi) with what desired effect (vii) and with what outcome;
- (d) how many individuals in Canada will be affected;
- (e) how was the figure in (d) calculated;
- (f) how many Canadian citizens residing in Canada are U.S. persons under FATCA;
- (g) how many Canadian permanent residents are U.S. persons under FATCA;
- (h) how many applications for permanent residency is Canada currently processing from persons who are or will be treated as U.S. persons under FATCA;
- (i) broken down by province and territory and status, how many persons in Canada are projected to be affected by FATCA;
- (j) how was the figure in (i) calculated;
- (k) how many Canadian financial institutions will be impacted by FATCA;
- (l) how was the figure in (k) calculated;
- (m) how many non-financial Canadian entities will be impacted by FATCA;
- (n) how was the figure in (m) calculated;
- (o) what consultations has the government undertaken with respect to FATCA's impact on persons resident in Canada;
- (p) what consultations has the government undertaken with respect to FATCA's impact on financial institutions;
- (p) what consultations has the government undertaken with respect to FATCA's impact on non-financial entities;
- (q) what estimates and studies have been undertaken with respect to the consequences of a 30% withholding of U.S. sourced income to financial institutions;
- (r) when did the studies in (q) occur and what were their conclusions;
- (s) how much has been spent evaluating FATCA's impact on Canadians;
- (t) broken down by department, how was the figure in (s) determined;
- (u) what estimates have been undertaken with respect to FATCA's cost to implement for Canada and with what conclusions;
- (w) for the five years starting 2014, how much is FATCA implementation expected to cost
 - (i) Canada Revenue Agency,
 - (ii) the department of Finance,
 - (iii) the department of Justice, (iv) other government departments, agencies, boards, or tribunals; (x) broken down by year and cost from 2010-2020, what is the total financial impact of FATCA implementation expected to be on Canadian taxpayers;
- (y) how were the figure in (x) obtained;
- (z) what outside legal opinions has the government sought with respect to FATCA's compatibility with Canadian law;
- (aa) when were the opinions in (z) sought and at what expense;
- (bb) have unsolicited legal opinions been sent to the government regarding FATCA;
- (cc) how many opinions in (bb) have the government received, (i) on what dates, (ii) with what conclusions, (iii) with what impact on the Government's actions;
- (dd) has the government assessed the possibility of not acceding to FATCA in any way and, if so, with what conclusion and with what cost to Canada or to Canadians when compared to accession;
- (ee) how much has been spent on negotiations surrounding FACTA, broken down by year and expense;
- (ff) which individuals from the government have negotiated on Canada's behalf regarding FATCA;
- (gg) what has the Minister of Finance's personal role been with respect to FATCA negotiations;
- (hh) what has the Minister of National Revenue's personal role been with respect to FATCA negotiations;
- (ii) what has the Minister of Foreign Affairs' personal role been with respect to FATCA negotiations;
- (jj) what plans or strategies has Canada developed regarding enforcement of any FACTA related agreement with the United States;

- (kk) what penalties will there be for U.S. failure to meet any of its negotiated obligations;
- (ll) has the litigation risk regarding any FATCA implementation agreement been evaluated and, if so, (i) how, (ii), when, (iii), by what means;
- (mm) broken down by department and agency, and with specific record numbers and titles, what briefing materials and files have been developed regarding FATCA;
- (nn) what measures are in place to assess the lawfulness and legality of any implementation of FATCA in Canada;
- (oo) have any future public consultations with respect to FATCA implementation been planned and, if not, why not;
- (pp) what is the projected impact of FATCA on the Bank of Canada;
- (qq) what efforts has the government made with respect to informing financial institutions of their obligations under FATCA;
- (rr) what efforts has the government made with respect to informing non-financial entities of their obligations under FATCA;
- (ss) what efforts has the government made with respect to informing individuals residing in Canada of their obligations under FATCA;
- (tt) has Canadian non-compliance with FATCA been assessed as a possibility and, if so, to what extent;
- (uu) has FATCA been raised in discussions between Canada and countries other than the U.S. and, if so, (i) with which countries, (ii) at what level(s) did the discussion occur (iii) on what dates (iv) in what forum (v) and with which individuals from Canada participating;
- (vv) have any studies or analysis taken place with respect to FATCA's impact on immigration to Canada by persons subject to this legislation and, if so, with what conclusion;
- (ww) has the Canadian Ambassador to the U.S. raised the issue of FATCA in any discussions and if so, (i) which discussions, (ii) on what dates, (iii) with what desired goal;
- (xx) has the American Ambassador to Canada raised the issue of FATCA in any discussions and if so, (i) which discussions, (ii) on what dates, (iii) with what outcome;
- (yy) has the government considered the correspondence of Peter Hogg regarding FATCA and if so, (i) with what impact on policy development, (ii) with what conclusion; and
- (zz) what steps will the government take to minimize any infringement of Canadian Charter rights by any implementation of FATCA?