

Q-35<sup>2</sup> — January 21, 2016 — Mr. Dusseault (Sherbrooke) — With respect to the September 2015 announcement of the Canada Revenue Agency (CRA) that it would effectuate a transfer of information to the United States Internal Revenue Service (IRS): (a) how many records has the CRA transferred to the IRS to date; (b) on what dates did information transfer occur and how many records were transferred on each date; (c) how many records of individuals have been transferred in total; (d) by what means were the records transferred; (e) how much did it cost the CRA to compile the records for transfer; (f) how much did it cost the CRA to complete the transfer; (g) how were the costs in (e) and (f) calculated and what is the breakdown of those costs; (h) who made the decision to transfer the records; (i) when was the decision made to transfer records; (j) when did the CRA become aware that the U.S. Treasury had extended the deadline for such transfer; (k) how was the CRA made aware that the U.S. Treasury had extended the deadline; (l) what steps were taken to assess and respond to the notice of deadline extension in (j); (m) what was the policy reason for transferring records despite the deadline extension; (n) when is the next transfer of records scheduled to take place; (o) what analysis was conducted to assess whether the transfer of records during the writ period for the 42nd General Election complied with the "Guidelines on the Conduct of Ministers, Ministers of State, Exempt Staff and Public Servants During an Election"; (p) what records exist with respect to any analysis conducted in relation to (o); (q) was information concerning the transfer of records from the CRA to the IRS included in any transition materials prepared for a potential change in government or the Ministers responsible for CRA and Foreign Affairs; (r) what documents exist in relation to (q) and what are their file numbers; (s) has the new Minister responsible for CRA been informed of information transfers to the IRS and, if so, (i) when, (ii) how, (iii) by whom, (iv) with what documents produced or prepared for this purpose; (t) has the new Minister of Justice been informed of the information transfer and been provided with any analysis of its legal implications and, if so, (i) when, (ii) how, (iii) by whom, (iv) with what documents produced or prepared for this purpose; (u) have Canadians who will be affected by the transfer been informed of the transfer of their records; (v) what plans exist with regard to informing Canadians about the transfer of their records; (w) has any proposal to inform Canadians of the transfer of their information to the IRS been evaluated by the government and, if so, with what conclusions; (x) what documents exist in relation to (w) and what are their file numbers; (y) what legal challenges does the government anticipate with respect to information transfer, and how is it preparing to respond; (z) what measures are in place to ensure the security of record transfers to the IRS; and (aa) has the Privacy Commissioner been consulted or involved in any way in the preparation or planning of record transfer to ensure conformity with applicable laws regarding the exchange of Canadians' personal information and, if so, to what extent?



**ORDER/ADDRESS OF THE HOUSE OF COMMONS**  
**ORDRE/ADRESSE DE LA CHAMBRE DES COMMUNES**

NO.-N° Q-35	BY / DE Mr. Dusseault (Sherbrooke)	DATE January 21, 2016/Le 21 janvier 2016
----------------	---------------------------------------	---

RETURN BY THE LEADER OF THE GOVERNMENT IN THE HOUSE OF COMMONS  
DÉPÔT DU LEADER DU GOUVERNEMENT À LA CHAMBRE DES COMMUNES

Mr. Lamoureux

PRINT NAME OF SIGNATORY  
INSCRIRE LE NOM DU SIGNATAIRE

SIGNATURE  
MINISTER OR PARLIAMENT SECRETARY  
MINISTRE OU SECRÉTAIRE PARLEMENTAIRE

MAR 09 2016

(TABLED FORTHWITH / DÉPOSÉ AUSSITÔT)



**INQUIRY OF MINISTRY  
DEMANDE DE RENSEIGNEMENT AU GOUVERNEMENT**

PREPARE IN ENGLISH AND FRENCH MARKING "ORIGINAL TEXT" OR "TRANSLATION"  
PRÉPARER EN ANGLAIS ET EN FRANÇAIS EN INDIQUANT "TEXTE ORIGINAL" OU "TRADUCTION"

QUESTION NO./N° DE LA QUESTION <b>Q-35</b>	BY / DE <b>Mr. Dusseault (Sherbrooke)</b>	DATE <b>January 21, 2016</b>
---	--	---------------------------------

Reply by the Minister of National Revenue  
Réponse de la ministre du Revenu national

Signed by the Honourable Diane Lebouthillier

PRINT NAME OF SIGNATORY  
INSCRIRE LE NOM DU SIGNATAIRE

SIGNATURE  
MINISTER OR PARLIAMENTARY SECRETARY  
MINISTRE OU SECRÉTAIRE PARLEMENTAIRE

QUESTION

With respect to the September 2015 announcement of the Canada Revenue Agency (CRA) that it would effectuate a transfer of information to the United States Internal Revenue Service (IRS): (a) how many records has the CRA transferred to the IRS to date; (b) on what dates did information transfer occur and how many records were transferred – **See full text of the question attached.**

REPLY / RÉPONSE

ORIGINAL TEXT  
TEXTE ORIGINAL

TRANSLATION  
TRADUCTION

With respect to the above-noted question, what follows is the response from the Canada Revenue Agency (CRA). The CRA has been asked to reply to Parts (a) to (s), (u), (v) and (y) to (aa).

**Part (a) and (b):** To date, the CRA has transferred approximately 155,000 records to the Internal Revenue Service (IRS). The records were provided to the IRS on September 30, 2015.

**Part (c):** Approximately 150,000 of the 155,000 records transferred relate to individuals.

**Part (d):** The data was hand delivered on an encrypted compact disc (CD) to the IRS on September 30, 2015, and the information was also sent using the International Data Exchange Service (IDES) on October 5, 2015.

**Part (e):** The cost for the CRA to compile the records for transfer was \$2,520.

**Part (f):** The cost for the CRA to complete the transfer was \$3,285.

**Part (g):** For Part (e), employee time by project milestones was tracked and reported. The hours were multiplied by the employee's hourly salary rate. The breakdown of the expenditures is as follows:

Testing prior to transmission	\$ 840
Preparing of FATCA data file and assisting program branch with transmission	\$1,680
Total	\$2,520

For Part (f), employee time was tracked and reported. The hours were multiplied by the employee's hourly salary rate. The costing also includes the travel expenses incurred to complete the transfer for which receipts were provided. The breakdown of the expenditures is as follows:

Salary Time	\$1,925
Travel Costs	\$1,360
Total	\$3,285

**Part (h):** The decision was made by CRA's delegated Competent Authorities, as defined by the Income Tax Convention between the U.S. and Canada.

**Part (i):** The final decision was made on September 30, 2015, after a Justice of the Federal Court of Appeal issued an Order denying the interlocutory (temporary) injunction prohibiting the disclosure of the appellants' financial records by the Minister of National Revenue to taxation authorities in the U.S.

**Part (j) and (k):** The CRA was not made aware of any extension of the deadline for exchange of information set out in the Canada-U.S. Intergovernmental Agreement. The CRA became aware of IRS Notice 2015-66 on September 18, 2015. The terms of the Notice were discussed with the IRS and confirmed the CRA's view that the Notice did not apply to any deadlines set out in the Canada-U.S. Intergovernmental Agreement.

**Part (l):** Internal analysis and discussion between CRA branches, as well as communications between the U.S. and Canadian delegated competent authorities, took place to assess the relevance of IRS Notice 2015-66.

**Part (m):** The CRA is committed to administering in good faith all of Canada's tax agreements including the Canada-U.S. Intergovernmental Agreement, which was given the force of law in Canada by Parliament. In so doing, the CRA is assisting the government's tax cooperation efforts and ensuring that Canada continues to be viewed as a reliable treaty partner.

**Part (n):** Pursuant to the terms of the Canada-U.S. Intergovernmental Agreement, it is expected that the next transmission will take place September 30, 2016, and will include information pertaining to the year 2015. In the interim, again as pursuant to the Agreement, the CRA could transmit information as needed in order to reflect any amendments filed by Financial Institutions to the information previously transmitted for year 2014.

**Part (o):** The CRA was aware of the "Guidelines on the Conduct of Ministers, Ministers of State, Exempt Staff and Public Servants During an Election" published in August 2015 by the Privy Council Office (also referred to as the "caretaker convention") and conducted itself in accordance with the guidelines in connection with all aspects of its tax administration.

**Part (p):** Privy Council announcements and CRA internal messaging made officials aware of their responsibilities; therefore with respect to part (o), there is no recorded analysis available in the manner suggested by the question.

**Part (g):** Information about the September 2015 tax information exchange with the United States was included in the transition materials provided to the Minister of National Revenue.

**Part (r):** A briefing note regarding the United States' *Foreign Account Tax Compliance Act (FATCA)* and its associated network of intergovernmental agreements was included in a Transition Binder that was provided to the Minister of National Revenue on November 6, 2015. Documents number BR-2015-02232 and COM-2015—1065, title "Intergovernmental Agreement (IGA) Regarding Foreign Account Tax Compliance Act (FATCA)" were also created.

**Part (s) (i) to (iv):** The Commissioner of the CRA briefed the Minister of National Revenue in mid-November 2015 on FATCA and related tax information exchanges during a series of briefings on the contents of the Transition Binder.

**Parts (u) and (v):** The CRA is committed to treating all Canadians fairly and has published a series of frequently asked questions regarding "What the agreement means for individuals with financial accounts in Canada". This document notes the following: "Canadian financial institutions must be open about their policies and procedures for complying with the agreement and must be prepared to make this information available to anyone who asks about them. Although financial institutions do not have to automatically notify their account holders about reporting to the CRA under the agreement, they must, upon request, allow account holders to have access to the personal information that has been reported." The link to these frequently asked questions is available on the CRA website: <http://www.cra-arc.gc.ca/tx/nrsdnts/nhncdrprtng/fq-eng.html#q2-16>

**Part (y):** A lawsuit has been filed against the government by plaintiffs opposed to the exchange of information. In view of this litigation, the government is not at liberty to provide further comment.

**Part (z):** The CRA is committed to protecting all taxpayer information. Each of Canada's tax treaties contains strict confidentiality requirements, and exchanges between the CRA and the IRS are subject to these important restrictions, and the additional administrative safeguards and understandings put in place that are fully consistent with these tax treaties.

**Part (aa):** The CRA consulted with the Office of the Privacy Commissioner (OPC). A privacy impact assessment (PIA), which is a policy process for identifying, assessing, and mitigating privacy risks, was completed and submitted to the OPC for review on August 27, 2015. The CRA received the OPC's recommendations on January 4, 2016. The recommendations do not prevent the CRA from exchanging the required information. A response to the OPC's recommendations is being prepared.



# INQUIRY OF MINISTRY DEMANDE DE RENSEIGNEMENT AU GOUVERNEMENT

PREPARE IN ENGLISH AND FRENCH MARKING "ORIGINAL TEXT" OR "TRANSLATION"  
PRÉPARER EN ANGLAIS ET EN FRANÇAIS EN INDIQUANT "TEXTE ORIGINAL" OU "TRADUCTION"

QUESTION NO./N <sup>o</sup> DE LA QUESTION <b>Q-35</b>	BY / DE <b>Mr. Dusseault (Sherbrooke)</b>	DATE <b>January 21, 2016</b>
---	--	---------------------------------

Reply by the Minister of Finance  
Réponse du ministre des Finances

Mr. Champagne

PRINT NAME OF SIGNATORY  
INSCRIRE LE NOM DU SIGNATAIRE

SIGNATURE  
MINISTER OR PARLIAMENTARY SECRETARY  
MINISTRE OU SECRÉTAIRE PARLEMENTAIRE

**QUESTION**

With respect to the September 2015 announcement of the Canada Revenue Agency (CRA) that it would effectuate a transfer of information to the United States Internal Revenue Service (IRS): (a) how many records has the CRA transferred to the IRS to date; (b) on what dates did information transfer occur and how many records were transferred on each date; (c) how many records of individuals have been transferred in total; (d) by what means were the records transferred; (e) – **See full text of the question attached.**

**REPLY / RÉPONSE**

ORIGINAL TEXT  
TEXTE ORIGINAL

TRANSLATION  
TRADUCTION

**Finance Canada**

**Part (w)**

Holders of accounts at financial institutions on which information is to be reported under the Canada-U.S. Intergovernmental Agreement for the Enhanced Exchange of Information under the Canada-U.S. Tax Convention (the "Canada-U.S. Intergovernmental Agreement") will generally be aware that the information is to be reported. This is because they will have identified themselves to their financial institution as a U.S. person or will have been contacted by their financial institution due to the presence of information suggesting that they may be a U.S. person for U.S. tax purposes (e.g., a U.S. resident or citizen). Indeed, the implementing legislation for the Canada-U.S. Intergovernmental Agreement requires that Canadian financial institutions communicate with accountholders of pre-existing accounts if there is information suggesting that they could be a U.S. taxpayer (e.g., the client's file contains a U.S. contact address or phone number), such that these clients would be on notice about the possibility of their information being exchanged with the U.S. Internal Revenue Service.

Under Canadian privacy laws, individuals have the right to know when their personal information has been shared. As such, subject to certain limitations, Canadian financial institutions and the Canada Revenue Agency must, upon request, advise individuals if their personal information has been disclosed and give them access to that information.

**Part (x)**

We are not aware of any documents pertaining to any proposal outlined in question (w).

**Part (aa)**

During the course of the negotiation of the Canada-U.S. Intergovernmental Agreement, officials from the Department of Finance and the Canada Revenue Agency engaged in discussions with officials from the Office of the Privacy Commissioner periodically to provide updates on the negotiations and discuss possible interactions between the U.S. Foreign Account Tax Compliance Act (FATCA), the proposed Canada-U.S. Intergovernmental Agreement, and Canadian privacy legislation. The draft legislation to implement the Agreement was also shared with the Office of the Privacy Commissioner.

The then interim Privacy Commissioner of Canada, Ms. Chantal Bernier, testified before the Senate Committee on National Finance on May 13, 2014 to discuss Bill C-31, which included provisions to implement the Canada-U.S. Intergovernmental Agreement in Canadian law. Ms. Bernier's written submission and testimony before the Committee raised no concerns from a privacy point of view regarding the proposed legal framework for the collection and exchange of information under the Agreement per se, but noted that she expected that the framework would be administered in practice in compliance with privacy laws. More specifically, she made the following points:

"I would like to note that there is a long-established practice of information sharing between nations for the purposes of taxation enforcement. This isn't a new concept. That said, we would expect that this and all information sharing activities be undertaken in a way which respects privacy."

"... Equally beyond our scope is how foreign jurisdictions implement their own tax collecting operations. That said, if Parliament seeks to make this reporting requirement required by law, we would expect that CRA will carry out its new FATCA-related responsibilities in a manner which meets its obligations under the Privacy Act. Similarly, we expect private-sector organizations, such as financial institutions, that may be legally required to collect and disclose customers' personal information to CRA pursuant to FATCA, to comply with their privacy obligations under PIPEDA."

In her oral testimony before the Committee, Ms. Bernier gave the following response:

**Senator Chaput:** Ms. Bernier, if we had asked you for your advice before studying the bill, would certain measures have been different?

**Ms. Bernier:** We had discussions with the Department of Finance and have seen improvements to the evolution of the bill.

However, we must resign ourselves to the fact that we are faced with a requirement from the United States and that the requirement corresponds to the public interest of the United States, meaning the integrity of their tax regime.

I think that the regime we have developed is proportional to that requirement, but I would like the assurance, on the one hand, as I was telling the chair a minute ago, that all of the measures required to avoid the excessive collection of information will be implemented, as well as all of the measures required to protect the security of the information once it has been collected.



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

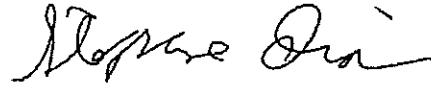
## INQUIRY OF MINISTRY DEMANDE DE RENSEIGNEMENT AU GOUVERNEMENT

PREPARE IN ENGLISH AND FRENCH MARKING "ORIGINAL TEXT" OR "TRANSLATION"  
PRÉPARER EN ANGLAIS ET EN FRANÇAIS EN INDIQUANT "TEXTE ORIGINAL" OU "TRADUCTION"

QUESTION NO./N <sup>o</sup> DE LA QUESTION <b>Q-35</b>	BY / DE <b>Mr. Dusseault (Sherbrooke)</b>	DATE <b>January 21, 2016</b>
---	--	---------------------------------

Reply by the Minister of Foreign Affairs  
Réponse du ministre des Affaires étrangères

Signed by the Honourable Stéphane Dion



PRINT NAME OF SIGNATORY  
INSCRIRE LE NOM DU SIGNATAIRE

SIGNATURE  
MINISTER OR PARLIAMENTARY SECRETARY  
MINISTRE OU SECRÉTAIRE PARLEMENTAIRE

**QUESTION**

With respect to the September 2015 announcement of the Canada Revenue Agency (CRA) that it would effectuate a transfer of information to the United States Internal Revenue Service (IRS): (a) how many records has the CRA transferred to the IRS to date; (b) on what dates did information transfer occur and how many records were transferred on each date; – **See full text of the question attached.**

**REPLY / RÉPONSE**

ORIGINAL TEXT  
TEXTE ORIGINAL



TRANSLATION  
TRADUCTION



(q) no information concerning the transfer of records from the Canada Revenue Agency (CRA) to the United States Internal Revenue Services (IRS) was included in the transition materials prepared for the Minister of Foreign Affairs.

Under existing provisions for information exchange under the Canada-U.S. tax treaty, Canadian financial institutions are required to identify financial accounts held by U.S. residents and U.S. citizens or by entities that are organized in the U.S. or controlled by certain U.S. persons and to report that information to the CRA. In turn, the U.S. provides Canada with enhanced and increased information on certain accounts of Canadian residents held at U.S. financial institutions. This agreement entered into force on June 27, 2014.

In Canada, responsibility for this exchange of information with U.S. authorities rests solely with the Canada Revenue Agency, not Global Affairs Canada.

(r) Global Affairs Canada has no document to provide in relation to (q) as this matter is the responsibility of the Canada Revenue Agency.





HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# INQUIRY OF MINISTRY DEMANDE DE RENSEIGNEMENT AU GOUVERNEMENT

PREPARE IN ENGLISH AND FRENCH MARKING "ORIGINAL TEXT" OR "TRANSLATION"  
PRÉPARER EN ANGLAIS ET EN FRANÇAIS EN INDIQUANT "TEXTE ORIGINAL" OU "TRADUCTION"

QUESTION NO./N° DE LA QUESTION Q-35	BY / DE Mr. Dusseault (Sherbrooke)	DATE January 21, 2016
--	---------------------------------------	--------------------------

Reply by the Minister of Justice and Attorney General of Canada  
Réponse de la ministre de la Justice et procureur général du Canada

Signed by the Honourable Jody Wilson-Raybould

PRINT NAME OF SIGNATORY  
INSCRIRE LE NOM DU SIGNATAIRE

SIGNATURE  
MINISTER OR PARLIAMENTARY SECRETARY  
MINISTRE OU SECRÉTAIRE PARLEMENTAIRE

QUESTION

With respect to the September 2015 announcement of the Canada Revenue Agency (CRA) that it would effectuate a transfer of information to the United States Internal Revenue Service (IRS): (a) how many records has the CRA transferred to the IRS to date; (b) on what dates did information transfer occur and how many records were transferred on each date; (c) how many records of individuals have been transferred in total; [...] – See full text of the question attached.

REPLY / RÉPONSE

ORIGINAL TEXT  
TEXTE ORIGINAL

TRANSLATION  
TRADUCTION

(f) The information requested is subject to solicitor-client privilege.