

# U.S. exiles should file, IRS warns

THIS is tax return day in the U.S. If you owe U.S. income tax, payment is due. But the actual return isn't due until June 15 since filings from outside the U.S. get an automatic two-month extension.

It's believed thousands of Canadian residents are supposed to file U.S. income tax returns but don't. Unlike those of other countries, U.S. tax rules are based on citizenship, not residency. Even with no other ties to the U.S., Americans must report their worldwide income if it's over US\$5,900 for a single person or US\$10,600 for a couple.

The same goes for Canadians with "green cards" that entitle them to live and work in the U.S., said Pablo Alvarez of the U.S. Internal Revenue Service office in Ottawa. To avoid the requirement, you must give up the card.

The IRS estimates non-filers around the world owe US\$7 billion a year. Last year it began a test enforcement project. At the time, an official told me if the test works, Canada would probably draw priority in a larger effort.

The IRS can track Americans through their passports. At each renewal, the State Department must give the IRS your name, address and social security number. So far, the IRS doesn't seem to do much, if anything, with that.

Accountants BDO Dunwoody Ward Mallette recently urged clients to comply with IRS filing re-

## PERSONAL FINANCE

By Bruce Cohen



quirements. It notes most timely filers owe no tax, but non-filers often do if they get caught.

The firm said that can occur if you move back to the U.S. It added: "In other cases, the problems arise only on death, particularly if the executor is also a U.S. citizen such as a son or daughter living in the U.S. As executor, they can be held personally liable for the unpaid tax liabilities of the estate."

Filers outside the U.S. are not taxed on the first US\$70,000 of earned income. There is also an exclusion for RRSP earnings which are technically taxable by the U.S.

each year. That money can stay sheltered until it becomes taxable in Canada, but you must file a U.S. return with a running account of your contributions and earnings.

Those exclusions are lost if a return is not filed on a "timely" basis. That's normally one year after the basic April 15 due date, though Alvarez said an additional one-year extension is granted in most cases. Thus, the window for 1992 will close on April 15, 1995.

If you lose the exclusions, you can claim credit for the Canadian tax you pay. But Alvarez said alternative minimum tax rules can void up to 10% of that credit.

The IRS is running a campaign to get non-filers inside. Alvarez said those who come forward voluntarily are normally asked to file returns only for the past six years. If tax is due, interest cannot be waived, but penalties may. That

depends on your case.

Some non-filers can even get back their US\$70,000 earned income exclusions through a "private letter ruling." That IRS review costs US\$500-1,000. Alvarez said a "very typical" case would involve an American who erroneously thought he lost his U.S. citizenship when he became a Canadian. He would file returns for the past six years. The ruling would be based on the oldest one and automatically govern the rest.

But you must have a "reasonable" excuse for not filing, Alvarez said. Not knowing you had to is not good enough, he added, but it would be different if an accountant improperly advised you.

Canadian snowbirds also face an IRS filing requirement, according to accountants BDO Dunwoody Ward Mallette: "If you regularly spend over four months a year in

the U.S., you would be a U.S. resident [for tax purposes] under the substantial presence test."

That test applies to those who spent at least 30 days in the U.S. during 1992. It adds the number of days spent there last year, one-third of those in 1991 and one-sixth of those in 1990. If that's more than 183, you're deemed to be a U.S. tax resident. The tally for this year would span 1991-93.

You can avoid having to file a U.S. return by sending the IRS a statement claiming a "closer connection" with Canada. That's based on a range of factors, such as the site of your permanent home, family and financial ties, membership in Canadian organizations, your driver's licence and Canadian voting status.

Currently, this filing requirement is a nuisance. Last year, IRS staff proposed a US\$1,000 fine for non-filers, but Alvarez said it did not go into effect.

IRS publication 54 explains filing requirements for U.S. expatriates and green card holders. Publication 519 covers others. IRS-Ottawa also has brief writeups for Canadians who own U.S. real estate and gamblers. The U.S. withholds 30% on most winnings. Since Canada doesn't tax prizes, there's no offsetting credit.

The IRS Canadian office is at Suite 201, 60 Queen St., Ottawa, Ont. K1P 5Y7. Phone: (613) 238-5335.

## Booklet provides tax help for snowbirds

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REVENUE CANADA and the U.S. Internal Service have published a 13-page tax rule summary called Canadian Residents Going Down South. Topics include real estate, U.S. estate tax and customs concerns for your return to Canada.

Test distribution began last month at several banks and IRS offices in Florida. Next winter it will be available at other Sunbelt points, said Revenue Canada spokesman Michel Cl  roux. Copies are also available from Revenue Canada's district taxation offices and

its international tax office at 2540 Lancaster Rd., Ottawa, Ont. K1A 1A8. Phone: (613) 952-3741.

The Canadian Personal Tax Planning Guide by accountants KPMG Peat Marwick Thorne offers a more detailed review plus planning tips. Published by Carswell, it's \$12.95 at bookstores.

Preparing Your Income Tax Returns, Canada's most comprehensive tax guide for the general public is also available at bookstores for \$24.95. It's produced by Arthur Andersen and published by CCH.