



Tax

CRA offshore tax evasion investigation may need more resources

By AdvocateDaily.com Staff



Although the government recently announced new funding for offshore tax investigations and audits, public perception appears to be that the Canadian revenue authorities are behind many other countries in investigating and bringing offshore tax evasion to light, says Toronto tax litigator [Adrienne Woodyard](#).

“This concern would not necessarily have been assuaged,” she says, by the May 9 announcement of Gail Shea, the Minister of National Revenue. In that announcement, the minister reported that the U.S., Australia and the U.K. have announced that they have tax-related information involving numerous trusts and companies holding assets in jurisdictions around the world, and that she has reached out to the government of the U.K. and secured a commitment that information relevant to Canada will be shared. The minister also noted that “formal requests” have been made to the U.S. and Australian tax authorities for the same information in their possession. [Read CBC](#)

Ultimately, the results that the CRA derives from the cooperation of its international partners depends in part on how quickly and efficiently it is able to process information when it comes in, says Woodyard, a lawyer with Davis LLP.

“After all, it’s one thing to receive raw data; it’s quite another to locate and assign the appropriate personnel to sift through it, verify its accuracy, determine its relevance, ascertain the identity of all of the taxpayers involved and calculate the tax consequences. It’s not necessarily a simple matter to turn raw data into a tax assessment or a criminal



charge of tax evasion,” she says.

While the government also recently [announced](#) that it has committed six to ten of its staff and \$30 million over the next five years to detecting offshore tax evasion, Woodyard asks whether that will be sufficient, or whether it is merely a first step for the government.

Woodyard also points out that some offshore tax evasion has apparently been revealed already through formal CRA channels; the CRA has reported that there has been an upswing in the number of taxpayers with unreported offshore income applying for amnesty under the voluntary disclosure program in recent years.

“It’s reasonable to assume that this has quite a lot to do with the intense media coverage that has surrounded recent information leaks from sources in offshore tax havens. But it’s very difficult, if not impossible, to determine what percentage of previously unreported offshore tax income is coming to light through the voluntary disclosure program,” she says.

While the CRA has not yet reported having convicted any Canadian taxpayers under “Project Jade,” its 2007 investigation into offshore tax evasion arising from the disclosure of information from Liechtenstein, Woodyard points out that no one outside the CRA knows how many investigations are underway, or nearing completion, or how many files are being processed. In addition, not all investigations will necessarily result in criminal prosecutions.

Where unreported offshore income is discovered but the CRA believes, for whatever reason, that a taxpayer’s conduct “falls short of the degree of culpability that would constitute the grounds for a criminal prosecution, the CRA will simply process tax reassessments, usually applying civil, but not criminal penalties,” Woodyard explains. She adds, “information about these civil proceedings will generally never be disclosed to the public, unless the taxpayer appeals the reassessment to the Tax Court, because the CRA is obliged to keep this information confidential. So it’s very difficult for members of the public to know the true scope of the problem, and to gauge how effective the CRA has been in addressing it.”

“But,” she adds, “one thing is clear: taxpayers with unreported foreign source income would



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certainly be wise to explore the possibility of initiating a voluntary disclosure before the CRA comes calling.”