

Long arm of tax law

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By RuthMoisa Stoute

Barbadians who have dual citizenship with the United States of America who have property and other assets or who conduct financial transactions in the USA could have their bank or insurance accounts targeted for review under the Foreign Account Tax Compliance Act (FATCA), a federal law of the USA that was enacted in 2010 to cut out non-payment of federal taxes by US taxpayers who use foreign accounts for this purpose.

According to Donville Inniss, Minister of Industry, International Business, Commerce and Small Business Development, the onus is on such Barbadians to do their own checking to find out if they would fall under such scrutiny. However, he has also given the assurance the Barbadian Government would be playing an active role through his ministry and a FATCA Task Force to conduct public education and continued dialogue within the financial industry.

Minister Inniss was at the time speaking to members of the press shortly after making remarks at a symposium to discuss the FATCA which was hosted by the Central Bank of Barbados at the Hilton Barbados yesterday morning.

Inniss said that one of his main concerns surrounding the law, which requires financial institutions to report to the US Internal Revenue Service information about financial accounts held by US taxpayers or by foreign companies in which US taxpayers hold a controlling interest, was the significant number of "Bajan Yankees" that could stand to be affected, who were in many cases clueless to what would be expected of them.

Said Inniss: "...those who are dual citizens would have their challenges but it all ties into the threshold that we are negotiating, which is US\$50 000 in bank accounts [as well as] insurance cash surrenders valued for under \$100 000... [Barbadians] who live in the US but bank back here in Barbados, they may be saving for retirement, or they may have had a property left to them by [parents] that they converted to cash and kept in an bank account here.

"The fact remains that they are also Americans and they will be subject to such reviews once the threshold is met and it triggers a review by the bank or insurance company they are dealing with."

During the symposium, Bruce Zagaris, a financial consultant and partner with the firm Berliner, Corcoran & Rowe L.L.P, spoke more on the issue, stating that not only were dual nationals subject to FATCA but that many "accidental Americans" could find themselves having to contend with the law if they met the threshold.

"[There are persons for example who] were born of a US parent and they might have lived for 2 weeks in the US. They wake up 50 years later and because they have not expatriated as yet, they are subject to all these reporting [requirements] and to worldwide tax... or a lot of people are green card holders and because they have not done anything to abandon their permanent residency they are also caught," he indicated.

Zagaris also pointed to a third group of people whom he referred to as "just physically present for more that 180 days", as persons who could also fall within the radar of the US IRS.

Elson Gaskin, Bank Secretary of the Central Bank of Barbados, weighed in briefly on the discussion, noted that both Barbados and USA taxed their citizens on worldwide income. Therefore, he explained, "Barbadians who [fell into any of the aforementioned scenarios] should be able to get the foreign tax credit in the US, in relation to the withholding that [they] would pay on the income on that money in Barbados."