



JANUARY 2012 EXECUTIVE TAXBRIEFS

NEW LEGISLATION

24. The IRS Announces Break for Non-Filing US Persons Resident in Canada

Buried in the annals of the IRS was this little Christmas present [Link](#) as covered by the [Globe & Mail](#). For more information on this important IRS announcement see their release FS-2011-13, December 2011. In this release, the IRS notes that it is aware that some taxpayers who are dual citizens of the United States and a foreign country may have failed to timely file United States federal income tax returns or Reports of Foreign Bank and Financial Accounts (FBARs), despite being required to do so. As the IRS further observes, some of those taxpayers are now aware of their filing obligations and wish to come into compliance with the law.

This IRS fact sheet summarizes information about federal income tax return and FBAR filing requirements, how to file a federal income tax return or FBAR, and potential penalties. The IRS also importantly notes that penalties will not be imposed in all cases. Taxpayers who owe no U.S. tax due, for example, to the application of the foreign earned income exclusion or foreign tax credits will owe no failure to file or failure to pay penalties. In addition, no FBAR penalty applies in the case of a violation that the IRS determines was due to reasonable cause.

For further guidance see the examples provided by the IRS in this fact sheet. Clearly there are a lot of details to work out but it does appear there is at least some softening in the harsh application of failure to file penalties.

US persons are cautioned that there are new filing requirements coming into effect in 2102 for US taxpayers who have certain specified foreign financial assets with an aggregate value exceeding \$50,000. If you are a US person living in Canada, NOW is the time to get caught up on your US filings!