



## EBTC NEWS

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**DATE: February 5, 2015**

**SUBJECT: Border program affects Canadian visits**

**SOURCE: Meg Olson, The Northern Light, 2/5/15**

More shared information between U.S. and Canadian border agencies spells more scrutiny for Canadians who regularly spend time in the U.S.

When phase two of the Beyond the Border Entry/Exit Initiative rolled out in June 2013, border agencies began sharing biographic information on third-country nationals, and U.S. and Canadian permanent residents. The next phase of the project was scheduled to cover all travelers and was due to be implemented by June 2014, but has been slowed down by privacy concerns on the Canadian side.

“Both Canada and the U.S. remain dedicated to the full implementation of the Entry/Exit Initiative, to enhance security through a common approach to perimeter screening,” stated Canadian Border Services Agency (CBSA) spokesperson Line Guibert-Wolff. “Legislative and regulatory changes are required before phase three can be fully implemented in Canada.”

When the system is fully implemented, border agencies will share information of entry into one country to use as proof of exit from the other, providing accurate information on how much time individuals spend on either side of the border.

According to the Canada Border Services Agency (CBSA), the shared information will be used to enforce immigration warrants, monitor removal orders and “also assist the government in determining that individuals continue to meet permanent residency obligations and/or meet eligibility requirements to apply for citizenship.”

In a January 20 interview with CBC Radio, Gail Hunnisett, a constituency assistant for Adam Atamanenko, the Member of Parliament for B.C.'s southern interior, said the new system was causing anxiety to frequent travelers to the U.S. Hunnisett said the office was hearing from "people who own property in the states and spend four to six months there," a description that would apply to many property owners in Birch Bay.

"Most Canadians believe if they spend no more than 182 days, essentially six months, in the U.S. they are going to avoid U.S. tax complications and they aren't going to lose their healthcare," Hunnisett said. "That's a common misconception."

Depending on which government agency consulted, the "days out of country" criteria are different.

Regarding health insurance, the B.C. Ministry of Health requires B.C. residents to be physically present in the province for at least six months in a calendar year. However, as of last year, they may spend an extra month outside B.C. if they are away "for vacation purposes only." Moreover, the Canadian government has not confirmed that individual out-of-country data will be transmitted to provincial agencies.

The U.S. Internal Revenue Service considers someone a U.S. resident for tax purposes if they meet the "substantial presence test," which adds up to a portion of the days spent in the U.S. over three years. It adds the days present in the current tax year plus one-third of the days in the previous year and one-sixth of the days in the year before that: if the total equals 183 days, the IRS could be on you.

According to U.S. Customs and Border Protection, a Canadian may reside in the U.S. for up to six months. After returning home, there is "no set period of time" they need to wait before re-entering the U.S., as long as the traveler, through proof of employment or residence, can demonstrate to the officer that they are spending more time in Canada than the U.S. and are "not de facto U.S. residents." With the new data sharing, officers will have access to specific data about when and how long a person has been in the U.S. or Canada.

As day trips for gas, food or parcels also count as trips to the U.S., Hunnisett recommends frequent travelers to the U.S. keep a detailed log of their trips and each trip's purpose.

According to the CBSA, there is still no definite timeline for implementation of the full information-sharing program. "This is part of an ongoing effort, in consultation with the Office of the Privacy Commissioner (OPC) to ensure that privacy concerns are addressed and personal information is safeguarded," Guibert-Wolff said. "Strict measures and agreements are and will be in place to protect Canadians' personal information gathered and shared under the Entry/Exit Initiative.