



GMS Flash Alert

Immigration Edition

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Canada - Measures for Cross-Border Travelers in Bill C-21

New legislation is being considered that would amend Canada's *Customs Act*. If enacted, Bill C-21 will grant the Canadian Border Services Agency (CBSA) additional scope to collect basic exit information on all travelers departing Canada. Under Section 92 of Bill C-21, the CBSA will be authorized to collect the following information on travelers departing Canada: name, date of birth, citizenship, gender, issuing authority of the travel document of travelers, and the date, time, and place of the departure.

The amendment will enable CBSA to track whether and when a person departs from Canada. In order to obtain this exit information, **the CBSA will record the date, time, and place of a traveler's departure from Canada.**

WHY THIS MATTERS

If enacted, Bill C-21 will enable the verification of travel dates to determine immigration-related status compliance (work permit/business visitor), applicable tax and duty exemptions, as well as continued entitlement to social programs. One of the proposed purposes of Bill C-21 is to protect Canadian taxpayer dollars by reducing tax and benefit fraud. To achieve this purpose, exit information will be used to establish when people leave Canada and determine whether they are fulfilling the residency requirements for a respective program.

Background

On June 15, 2016, Canada's Minister of Public Safety and Emergency Preparedness introduced Bill C-21, *An Act to Amend the Customs Act*. The third reading of Bill C-21 took place on May 9, 2018.¹ Bill C-21 is a requirement of the Beyond the Border Initiative announced by Canada's Prime Minister Stephen Harper and U.S. President Barack Obama in 2011.² On March 10, 2016, new Canadian Prime Minister Justin Trudeau and President Obama announced that

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Canada and the United States would cooperate to implement a system to exchange basic entry and exit information at the Canada-U.S. border.³

A proposed purpose of Bill C-21 is to enable Canadian authorities to better manage the border, combat cross-border crime, respond to national security threats, ensure the integrity of Canada’s immigration system and protect taxpayer dollars against the abuse of certain government benefits and programs .

Exit Information to Be Collected

If a traveler departs from Canada to the U.S. at a land border, it is anticipated that U.S. immigration officials will provide CBSA with exit information. Where a traveler departs Canada by plane, exit information will likely be provided to CBSA directly by the airline. Under Bill C-21, the following information will be provided to the CBSA (including new information to be recorded (highlighted in blue)):

Exit Information	Bill C-21
<i>Name</i>	✓
<i>Date of birth</i>	✓
<i>Citizenship</i>	✓
<i>Gender</i>	✓
<i>Issuing authority of the travel document</i>	✓
Time of departure from Canada	✓
Date of departure from Canada	✓
Place of departure from Canada	✓

Immigration Violations, Tax and Benefits Fraud

Immigration Violations

Under Bill C-21, CBSA will receive exit data permitting an officer to determine whether a foreign national departed Canada prior to the expiry of their status. CBSA officials will also have access to entry and exist data to determine “residency” obligations for immigration purposes.

Tax Fraud

Bill C-21 will authorize the disclosure of exit information to the Canada Revenue Agency (CRA) to enforce tax-related obligations. Under the *Customs Act*, information collected under the *Act* can be provided to the CRA to enforce the following: the *Canadian Pension Plan*, the *Employment Insurance Act*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, or the *Income Tax Act*.

Benefit Fraud

Exit information collected by the CBSA under Bill C-21 could be used to reduce benefit fraud and abuse of certain federal programs with residency requirements. Exit information collected under Bill C-21 will be used to establish when people leave Canada, and thus used to determine who is eligible for certain benefits with residency requirements.

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KPMG NOTE

Canada currently has no other system in place to track whether, and when, travelers exit Canada. Bill C-21 has been described as a necessary piece of legislation required to fill this security loop-hole.

In the event that Bill C-21 is enacted, the following considerations should be kept in mind for employers with cross-border travelers:

- 1 *Awareness* – Business travelers should be aware that CBSA will be able to document their exit information and review a record of their entire stay in Canada. This may result in immigration- and tax-related exposure.
- 2 *Scrutiny on re-entry* – Frequent business travelers may face more detailed questioning upon re-entry and should be prepared to explain past travel dates, activities, and compliance with previous work permit or business visitor authorization.
- 3 *Tracking* – Permanent residents and individuals seeking Canadian citizenship will need to carefully monitor their physical residency in Canada to foster compliance with their residency obligations.

Given the potential impact of Bill C-21, employers should review their existing approaches for managing cross-border travel so that appropriate processes are in place to promote immigration and tax compliance, reduce liability exposure, and protect brand reputation.

FOOTNOTES:

- 1 For the status of bill C-21, click [here](#).
- 2 To see “Declaration by President Obama and Prime Minister Harper of Canada - Beyond the Border” (February 4, 2011) on the archived White House Web page, click [here](#).
- 3 To see “Statement by the Prime Minister of Canada on the bilateral meeting with President Obama” (March 10, 2016), click [here](#).

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Contact us

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