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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order. This is meeting number 33 of the Standing Committee on Finance, orders of the day pursuant to the order of reference of Tuesday, April 8, 2014, continuing our study of Bill C-31, an act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

I want to welcome our guests to the committee this afternoon. For the first panel of discussion on this bill we have, presenting as individuals, Mr. Stéphane Eljarrat. Welcome.

We have Mr. Mark Tonkovich, associate with Baker and McKenzie LLP. Welcome.

From the Association of Canadian Academic Healthcare Organizations and Canadian Healthcare Association, we have Ms. Beatrice Keleher Raffoul, welcome. She is vice-president for public affairs.

We have from the Certified General Accountants Association of Canada, Ms. Carole Presseault, vice-president. I understand this will be her last appearance before our committee in this capacity today. Welcome back to the committee.

We have the president of the Search and Rescue Volunteer Association of Canada, Mr. Harry Blackmore. Welcome to you, sir.

You will each have five minutes, maximum, for your opening statements, and we will then go to questions from members.

We'll begin with Mr. Eljarrat, please.

[Translation]

Mr. Stéphane Eljarrat (Partner, Davies Ward Phillips and Vineberg LLP, As an Individual): Thank you, Mr. Chair. Good afternoon.

What drew my attention in these provisions is the amendment to subsection 241(9.4) of the act. This amendment aims to broaden or breach tax secrecy by allowing Canada Revenue Agency officials to provide police authorities with information if they have reasonable grounds to believe that an offence has been committed.

I think this provision should be analyzed to take into account all the issues it encompasses, since the Supreme Court reminded us, over 20 years ago, in *Slattery*,

[English]

that the preservation of confidential tax information is extremely important to our tax system, which is based on self-reporting. We

have to be careful, when opening that kind of change, allowing the tax authorities to change information and contexts where they believe a crime has been committed, that this will not cause an issue with the fundamental principles that underlie our tax self-reporting system.

I'll be more than happy to answer any questions that this committee may have on my observations with regard to this particular provision, which is subclause 28(3), which amends subsection 241(9.4) of the act.

Thank you.

The Chair: Thank you very much for your presentation.

Now Mr. Tonkovich, please....

Mr. Mark Tonkovich (Associate, Baker and McKenzie LLP, As an Individual): Thank you, Mr. Chair.

Thank you to the committee for the invitation to appear in front of you today. I've had the privilege of seeing tax disputes from many different angles: as a lawyer in private practice, as counsel to the federal Department of Justice, and as judicial clerk to the Federal Court of Appeal.

My current legal practice focuses exclusively on helping taxpayers resolve controversies with Canadian tax authorities. But I am here today as an individual, and my comments reflect my personal views, not necessarily those of my firm nor our clients.

Against this background, I am pleased to offer whatever assistance I can to the committee as it considers parts 1 to 4 of the federal budget bill. But I'd like to take the opportunity to highlight two initiatives that stem from the budget.

Canada is working hard to balance budgetary needs and foreign policy against the sophisticated tax planning that exists on the global stage. One continuing challenge is ensuring that the CRA has the tools it needs to maintain the integrity of the tax system while respecting the basic taxpayer rights of consistency, predictability, and fairness. After all, our society and our laws correctly recognize each taxpayer's right to arrange his or her affairs in the most business-savvy and tax-efficient manner.

Returning to the bill, Bill C-31 contains provisions touching on two new information-gathering tools aimed at helping the CRA to achieve its mandate. The first is the introduction of the new electronic funds transfer, or EFT, reporting regime in part XV.1 of the Income Tax Act. The second deals with the CRA initiative today called the offshore tax informant program, or OTIP.

The Department of Finance released legislative proposals relating to the new EFT reporting regime this past January, and the proposed rules are contained in Bill C-31. The rules will require most financial intermediaries to file reports with the CRA days after completing an electronic fund transfer of \$10,000 or more, flowing into or leaving Canada at a client's request. The new regime includes detailed provisions defining which financial entities must submit reports, a corresponding record-keeping obligation for those entities, the creation of an offence for the failure to comply with that obligation, and rules explaining that EFT information can also be used for non-income tax purposes.

Although the CRA will need resources to properly monitor and analyze this new EFT information, the proposed regime will undoubtedly provide a fuller picture of traditional fund transfers across our borders. In turn, this will make it easier for the CRA to consider whether those funds have been properly accounted for, for tax purposes.

Moving to the second initiative, the offshore tax informant program, this a whistle-blowing program that was first announced in 2013 budget and was formally launched by the CRA in January of this year. OTIP aims to pay awards of between 5% and 15% of federal tax collected as a result of tips provided to the CRA concerning major international tax non-compliance. Anecdotally, I understand that a number of would-be informants have already started approaching professional advisers and have begun opening informant files with the CRA.

In contrast to the detailed legislative framework for EFT reporting, there are no legislative rules defining the new informant regime. There are a number of provisions in Bill C-31 that relate to the informant program—which I've set out in a schedule to my speaking notes—but these generally touch on how award moneys will be taxed, and how informants will be kept abreast of the status of their file.

Otherwise, all rules pertaining to OTIP are left to the CRA. This includes who can be an informant, whether awards could be paid for information concerning domestic non-compliance as opposed to international non-compliance, whether there are limits on how tax information can be obtained, and whether an informant's identity will be protected down the road.

Leaving the framework to the CRA is efficient in some respects. It allows the rules to be changed without the need to pursue legislative amendments, but it also falls short in certain other respects. For example, without legislative rules or regulations, the extent to which CRA policies can be relied upon or enforced by informants is unclear, as is the breadth of the CRA's authority to pay awards out of taxpayer dollars.

There's also a lack of clarity concerning how information can be obtained, and whether viable tips can, or should, be acquired by breaking the law or breaching professional or ethical obligations. An important public institution such as the CRA should not be seen as encouraging taxpayers or their advisers to cheat or steal to obtain potentially helpful tax information in order to make a buck.

Finally, the scope of the informant's obligations in any future tax assessment or enforcement proceeding is unclear. It's also unclear as to what ends the CRA will go to protect an informant's identity.

• (1535)

Legislated rules providing a certain degree of protection for informants would make the system easier to administer and more reliable for taxpayers. For these reasons, we propose legislative rules or regulations would assist in bringing clarity to the program.

Thank you, Mr. Chair.

The Chair: Thank you very much for your presentation.

Now we'll hear from the Association of Canadian Academic Healthcare Organizations and Canadian Healthcare Association.

Mrs. Beatrice Raffoul (Vice-President, Public Affairs, Association of Canadian Academic Healthcare Organizations and Canadian Healthcare Association): Mr. Chair, thank you.

I'm the vice-president of public affairs of the new organization formed by the recent merger of the Association of Canadian Academic Healthcare Organizations and the Canadian Healthcare Association. We represent the institutional voice for research hospitals, regional health authorities, their research institutes, community hospitals, and long-term care facilities. For the past four months we have been known under the hyphenated version of our two names, and I invite you to stay tuned for the announcement of our new name on June 1.

• (1540)

[*Translation*]

The association is pleased to have been invited to appear before the committee to participate in the study of the main estimates and, more specifically, to discuss clauses 56 to 60 of Bill C-31, concerning hospital parking and GST/HST.

[*English*]

In budget 2013, supplies of paid parking were deemed to be taxable, whether provided by the private or public sector, including charities, as it was perceived that all supplying of paid parking was determined to be a commercial activity in order to maintain competitive equity with private sector suppliers. It should be noted that, since the introduction of the GST, paid parking has been excluded from the general exempting provision for supplies made by a public sector body, PSB, for the purposes of the GST/HST. A PSB is a municipality, university, public college, school authority, hospital authority, charity, non-profit organization, or government.

Budget 2013 proposed two measures to clarify that certain special exempting provisions—supplies of the property or service that are made for free, or occasional supplies of paid parking by a PSB such as those made as part of a special fundraising event—would continue to qualify for the exemption.

The Association of Canadian Academic Healthcare Organizations, on behalf of our members and the broader hospital community, immediately brought the implications of such measures to the attention of the Minister of Finance and through him, to the government. To the credit of the minister and the government, implementation of these budget 2013 elements was delayed. Mr. Flaherty and his staff recognized the unintended consequences that they were being apprised of required further analysis. As well, the government recognized that these measures, at the very least, required more consultation. We assisted the government in this consultation process, and we thank them for that opportunity.

A large number of hospitals across the country, although not all, had their foundations or auxiliaries as the operators of their parking facilities. These additional revenues contributed greatly to their donation envelopes for research, medical devices, medical equipment, patient care, and other important items that hospitals and research institutes require, all in the service of better care, better health, better value for the population they serve. In addition, it had been noted that the impact was not just the GST but the full HST where harmonization had taken place.

The late Minister Flaherty's announcement, on January 24, that the proposed amendments to the Excise Tax Act to provide an exemption from the goods and services tax/harmonized sales tax, GST/HST, for hospital parking for patients and visitors was welcome news to the health care community, and for the most part would reverse the budget 2013 proposed measures.

We are very pleased to see these amendments reflected in sections 56 to 60 of Bill C-31, and urge the members of the committee to approve these sections.

I am happy to answer any questions you may have. Thank you.

The Chair: Thank you very much for your presentation.

Now we'll hear from the Certified General Accountants Association of Canada.

[*Translation*]

Ms. Carole Presseault (Vice-President, Government and Regulatory Affairs, Certified General Accountants Association of Canada): Mr. Chair, ladies and gentlemen members of the committee, thank you for the invitation to appear before you today to speak to Bill C-31 concerning the government's Economic Action Plan 2014. We appreciate this opportunity.

You have come to know us well through our many appearances before this committee. CGA-Canada is currently working with the Chartered Professional Accountants of Canada—CPA Canada—to integrate operations under the CPA banner.

Unification will enhance the influence, relevance and contribution of the Canadian accounting profession, both at home and internationally.

[*English*]

In the midst of global economic uncertainty, CGA Canada recognizes the federal government's strong economic leadership to balance the budget and achieve a surplus in 2015. While this bill is deep and wide in its scope, includes a vast array of measures, and

affects several federal acts, our comments today will focus on one measure.

We support the proposal in clause 31, part 1 of Bill C-31, on outstanding tax measures. I initially thought that was a typo, but it is clause 31, part 1 of Bill C-31, which amends the Financial Administration Act.

The purpose of this clause is to require the Minister of Finance to table annually in Parliament a list of legislative proposals, but this is not just any list. This list will include publicly announced proposals that have not been enacted by Parliament since the last federal election.

While this measure is definitely a step in the right direction to better manage changes to the Income Tax Act, you have the ability today to further improve clause 31. In its current form, this measure requires the minister to report only the outstanding tax measures from the current Parliament. As a consequence, the list will not include, potentially, the outstanding tax measures that date beyond that Parliament.

Committee members may want to follow the example of Bill C-549, introduced by one of your colleagues, the member of Parliament Mike Allen. Similar to clause 31, Bill C-549 amends the Financial Administration Act to require the Minister of Finance to table a report listing tax measures, which the government publicly announced its intention to legislate.

However, Bill C-549 goes further by requesting cumulative reports as opposed to reports that only start from the last election. Bill C-549 also requires a parliamentary committee to review the report tabled by the minister and submit its findings to Parliament.

We believe it would be preferable for the Minister of Finance to report all outstanding measures without making a distinction between past and present Parliaments. A cumulative list of proposals would greatly improve transparency.

As some of you will remember, it took 12 years for Parliament to pass the latest income tax technical bill. I'm of course referring to Bill C-48. It was almost 1,000 pages in length and enacted hundreds of outstanding tax measures.

To this, we heard very loudly from many parliamentarians, "Never again." We agree. Canadian taxpayers deserve a more effective and efficient process to manage introduced and legislated outstanding tax measures. In this spirit, we recommend you consider making a minor technical amendment to strengthen the intent of clause 31 to ensure cumulative reporting of unlegislated measures.

•(1545)

[Translation]

CGA-Canada thanks the committee for recommending that the federal government explore ways to simplify Canada's Income Tax Act to reduce complexities and inefficiencies.

We urge you to continue to champion this important issue. Whether it is through the creation of an independent expert panel or an office of tax simplification, or through a parliamentary committee study, we need a national dialogue. Taxation affects every single Canadian, yet there hasn't been any meaningful discussion on Canada's income tax system since the Carter Commission in the 1960s. It is time for parliamentarians, stakeholders, academics and Canadian taxpayers to talk about tax reform.

Mr. Chair and honourable members of the committee, thank you for your time. We look forward to participating in the ensuing discussion.

[English]

The Chair: Thank you very much for your presentation. I'm hoping that thousand-page tax bill will take the place of purgatory at one point in my life.

Voices: Oh, oh!

An hon. member: You've done your time, Chair.

The Chair: Yes.

We'll now hear from Mr. Blackmore, please, with his presentation.

Mr. Harry Blackmore (President, Search and Rescue Volunteer Association of Canada): Thank you, Mr. Chair.

The Search and Rescue Volunteer Association of Canada is a national organization representing all provincial and territorial ground search and rescue associations, known as GSAR associations. All of these associations and their 300 teams are totally made up of volunteers.

SARVAC is a federally incorporated charitable organization providing oversight, education, and support. We foster, coordinate, and encourage excellence in volunteer search and rescue organizations in Canada. Our vision is to have a national community of skilled search and rescue volunteers whose contributions are valued and supported by the public and all levels of government.

SARVAC has over 9,000 volunteer searchers, team leaders, and search managers who respond to an average of 1,900 calls a year. Combined, they volunteer 142,000 hours in searches, 63,000 hours in training, 10,000 hours in prevention, and 19,000 community hours in ground search and rescue every year.

The Search and Rescue Volunteer Association of Canada, the Civil Air Search and Rescue Association, known as CASARA, and the Canadian Coast Guard Auxiliary are the three lead organizations for volunteer search and rescue in Canada.

For many years SARVAC has championed the provision of a tax credit to recognize the value of the GSAR volunteers who give so much of their time and effort to searches, training, and maintaining a readiness to search for missing people. The new search and rescue

volunteers tax credit is therefore truly recognized as a welcome benefit to GSAR volunteers who commit their personal time, effort, and equipment to finding lost persons in their communities. The new tax credit is recognition of the important role played by search and rescue volunteers in contributing to the security and safety of our citizens and visitors to our country.

For the purpose of determining the cost savings that a volunteer imparts, a value of \$25 per hour was assigned to various government agencies. These figures are now 10 years old. This means that by using the skilled search and rescue volunteers, there is a huge reduction to the financial burden of governments to carry out SAR missions.

To be eligible to qualify for the new tax credit, a volunteer must have put in 200 hours or more of volunteer time. This will require that all volunteer time is properly documented to ensure that clear supporting records are kept to show primary hours, which include searching, training, meetings, and on-call; and secondary hours, which include maintenance of equipment and prevention, for a minimum of 200 hours required to qualify. Of these, 101 hours must be made up of primary hours.

GSAR volunteers place themselves at risk any time they are responding to a search for a missing or a lost person. Searches often take place in rough terrain, poor weather, and can happen day or night. Searchers are trained in search techniques, first aid, rescue and recovery, navigation, and survival. They offer themselves as a professional resource to policing agencies in Canada.

Thank you very much.

•(1550)

The Chair: Thank you very much for your presentation.

We'll begin members' questions with Mr. Caron.

[Translation]

Mr. Caron, you have seven minutes.

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Thank you very much, Mr. Chair.

I want to thank the witnesses for their presentations.

My first questions are for Mr. Eljarrat and Mr. Tonkovich. I want to discuss tax non-compliance and Canada Revenue Agency's use of informers.

At an information session where department officials explained to us the various provisions of the bill, they told us that anonymous informant tips would no longer be accepted. However, the deputy minister told us he had not heard that the government wanted to abolish or change the existing tip-based program.

So we can assume that, if the agency receives any anonymous information that corresponds to the criteria of the new non-compliance program, as stipulated in the bill, but under the lead program, the informants would be invited to participate in the new program.

To what extent do you think informants will be deterred by the fact that they have to make their collaboration with the Canada Revenue Agency official? Do you think this could scare them off?

Mr. Stéphane Eljarrat: I think this is an excellent question that encompasses various aspects.

First, those anonymous informant programs have existed for a very long time. I think they are working relatively well, since there are always some people who are open to providing information without expecting any sort of payment from the government. However, based on my experience and the discussions I have had with individuals familiar with those programs' administration, one of the key conditions for people is anonymity. The first consideration people think about when they call a hotline to provide information is ensuring that their identity will remain secret. Basically, I think those two programs are completely separate to an extent because, in the first case, anonymous informing does not involve a lot of work. The person calls, provides a lead and the authorities, with the means at their disposal, can check the validity of that lead.

However, an official informant program with compensation does require work. The agency will not compensate people for doing nothing or without providing detailed information. The compensation percentage for the informer varies based on the quality of the information they provide and the work done. So I think two different clienteles are involved.

Second, paid whistleblowing mostly has to do with international tax transactions. Those cases are much more complex and difficult to identify than those involving individuals who call in to say that they think their neighbour is buying goods that seem to be beyond their means. I think those two programs are separate. They are based on their own specific problems and their own specific realities.

Mr. Guy Caron: I would like to come back to you on this topic, but I would also like to hear Mr. Tonkovich's answer.

• (1555)

[English]

Mr. Mark Tonkovich: Thank you, Mr. Chair.

I agree that these are two different types of programs. The indications from the Canada Revenue Agency are that both programs will continue. One is the anonymous program for those individuals who don't wish to make clear who they are or how they obtained this information, more of these anonymous tips just being received without any additional catches. The other program, the one that I had focused on, the offshore tax informant program, has been officialized in the sense that the Canada Revenue Agency has released a number of rules and a number of guidance documents describing how the program would work. One of these is clear that it does require details as to who the informant is and where the information was obtained.

My concern with regard to officializing it is that these are simply administrative guidance documents, and there are no clear regulations or legislative policies explaining how the structure will work or

how anonymity against other parties would be maintained. The lack of additional information in this regard is going to make it difficult for professional advisers or for would-be informants to decide whether to come forward, because it's not clear how far the Canada Revenue Agency will go to protect their identity. Frankly, providing this kind of information may come with other types of liability. If there are no clear rules as to how identities will be protected and so forth, then the program will not work as well as it could if there were clear rules.

[Translation]

Mr. Guy Caron: My time is limited, so I ask that you keep your answers to 30 seconds or 45 seconds.

When I look at the bill's provisions on informants, I feel that the government wanted, on the one hand, to show that it was doing something, but on the other hand, to implement provisions that would likely discourage informants. Do you agree with that?

Mr. Stéphane Eljarrat: I will respond very briefly because we could discuss this for hours. I think this program is somewhat inspired by the one in place in the United States, in particular with the IRS. Canada wanted to benefit from that experience.

Mr. Guy Caron: But the compensation involved is much lower.

Mr. Stéphane Eljarrat: The compensation is lower.

We also now see that including the received amounts in the revenue raises some questions. As my colleague pointed out—and I fully agree—the informant will benefit from no protection under the proposed provisions. The extent of the protection for that person's anonymity is far from being clear. They will also have to include in their income tax return the amounts they received from the agency. Consequently, should any legal action be taken later on against that individual for having provided information—either because the information was obtained illegally or for other reasons—they could always be forced, as a witness, to provide their income tax returns. At that point, it could be noted that they did indeed receive the money. So the notion of anonymity is far from being clear.

Mr. Guy Caron: I am being told that I have only one minute left. So I will ask Mr. Tonkovich to answer this question, as well.

[English]

Mr. Mark Tonkovich: I will speak quickly.

That's actually one of the potential concerns. There are rules and suggested provisions in the bill to include informant awards, for example in the informant's income and things of that nature, but this is only one side of the rule base. There is silence as to how the program itself will work and what kind of protections, for example, would apply to these informants, whether there are forms of privilege or that kind of thing that would go forward.

My concern is that, when I compare that to the electronic fund transfer rules, we have a fairly detailed legislative base there. We don't have quite the same base on the informant side. That may be something for the committee to consider.

The Chair: Thank you.

[*Translation*]

Thank you, Mr. Caron.

[*English*]

We'll go to Mr. Keddy, please, for seven minutes.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman.

Welcome to our witnesses. I'm looking forward to good and robust discussion.

I want to continue on for a moment on the offshore tax informant and the difference between anonymous information and paid information. I recognize the points that both Mark and Stéphane have brought up, but you're well aware that under the Income Tax Act, CRA is criminally responsible for individuals' information, so obviously the system will have to recognize that. Government is responsible, so it has to be protected.

You are aware of the clause, I'm certain.

Mr. Stéphane Eljarrat: Just to be clear, you're talking about the fact that it's illegal for the authorities to release information under section 241?

Mr. Gerald Keddy: Yes.

Mr. Stéphane Eljarrat: Clearly it is, but we're also seeing under the proposed change to subsection 241(9.4) that, in certain circumstances, the CRA would be able to provide that information to other authorities.

That being said, as I mentioned before and like my colleague says, because there are no rules, there are all kinds of issues, such as third party liability lawsuits that people could face. One of the points I was just trying to make as an example is, if the person is forced to include in their income the receipt they got from the Canada Revenue Agency for their help, if there is a lawsuit later, that person could be forced in civil courts to present himself under a subpoena with their tax returns, and that information then would appear.

But there are other serious issues with regard to whether or not in all circumstances CRA would be able to protect the information. For example, if the person is charged for tax evasion, in certain circumstances there is an informant protection at common law that exists for police informants, but when innocence is at stake also in certain circumstances, that information must be released.

So it's just not completely clear. I agree that, if the rules were set out in more detail as to how the protections would work, I think it would help the program function better. I definitely agree with Mr. Tonkovich on this.

• (1600)

Mr. Gerald Keddy: Go ahead.

Mr. Mark Tonkovich: I agree with Mr. Eljarrat, obviously. I think we share a similar position on this point.

I am certainly familiar about the rules prohibiting disclosure of taxpayer information by the Canada Revenue Agency. However, there are a number of exceptions to those rules, one of which is if it's necessary for the purposes of administration or enforcement of the act.

This is something that comes up particularly in the context of assessment in enforcement proceedings. When taxpayers who are covered by this confidential and anonymous information or non-anonymous information, if they have been assessed for taxes and the matter proceeds to court to collect those taxes, then those kinds of protections won't apply or may not apply.

My concern is that, without including some type of provision making clear when the anonymity will be protected, when the identities will be protected, it leaves a gap there to decide when we're advising potential informants.... Even if we're not advising, it leaves a gap for the informants themselves to decide whether or not to come forward because it's not quite clear how their identity will be protected down the road.

Mr. Gerald Keddy: I appreciate that. I do have other questions, but I think it's worth repeating that CRA has an obligation to protect all taxpayer information that is within their system. If you take that as fact at the beginning, that would also go to mean that we are going to protect anonymous information and any information coming out of this new offshore tax informant legislation.

I have a quick question.

How much time do I have, Mr. Chair?

The Chair: You have three minutes.

Mr. Gerald Keddy: Oh, I'm doing better than I thought.

Mr. Blackmore, thank you for being here today.

I represent a rural coastal riding in Nova Scotia, so we have a great relationship with our coast guard auxiliary and land-based search and rescue, and volunteer firefighters. We're small-town Canada in a big way because the largest community in my riding is 8,000 people. So we're very rural.

Part of this budget allows the combination of the search and rescue and the volunteer firefighter tax credit for your body. Do you have any realistic opinion on the numbers that this could affect? For small communities, some volunteer firefighters may get 100 hours as a volunteer firefighter. They may get 110 hours in search and rescue, but they don't have enough of either one individually to qualify. So is there a number out there that...?

Mr. Harry Blackmore: Right now, under 200 hours, you can combine them according to CRA, so if they do have 100 and 110, as long as one is enough to make primary and secondary, they can combine them and just claim once. Therefore, that's the reason smaller towns combine them, because the volunteer firefighters had this two years ago, and now this gives everybody a chance, because a lot of them were in between. Now most of them can hopefully avail of it with the program being combined.

Mr. Gerald Keddy: Thank you.

Beatrice Keleher, you talked about GST/HST on hospital parking. I think that was one of those items that got lost in the mix, if you will. Do you have any idea of an actual number that hospital parking is worth to hospitals? I was in a hospital parking lot three weeks ago, and it was midday and I counted the cars. There were 125 cars in the parking lot. That was at two o'clock in the afternoon at three bucks a hit. I assume a lot more went in and out of there during the day, so it should be quite a good revenue generator for hospitals.

• (1605)

The Chair: You have 30 seconds.

Mrs. Beatrice Raffoul: Yes, in fact it was. That was the reason, when this measure came out of the blue, the impact was severe. The remittance of that GST, which would have been implemented immediately, would have meant in the neighbourhood, for example, in the province of Quebec, of some \$10 million, just for the GST, just in one province alone. So that's 13% of what number?

This was very significant. As I said, the minister had not fully appreciated.... They were trying to close the loophole, but they hadn't factored in this particular matter coming to light as it did.

The Chair: Thank you very much.

Thank you, Mr. Keddy.

[Translation]

Mr. Dubourg, go ahead. You have seven minutes.

Mr. Emmanuel Dubourg (Bourassa, Lib.): Thank you, Mr. Chair.

It is my turn to say hello to all the witnesses joining us this afternoon.

My question is for Mr. Eljarrat.

Not so long ago, in 2012, Mr. Eljarrat was representing his organization at a meeting of a Quebec parliamentary commission. The topic of discussion was breaches of confidentiality of information.

We know that the Canada Revenue Agency has a lot of power to obtain information. We also know that we have a voluntary compliance system in place for the Income Tax Act. However, the negative impact of measures such as the one proposed in Bill C-31 is huge, not to mention the fact that the agency has also concluded information exchange agreements with the Quebec revenue department, among others. While I was a member of the Quebec National Assembly, the Ordre des comptables professionnels agréés du Québec and the Barreau du Québec told the minister that proposing such a measure was really inappropriate. One of the experts in attendance was Mr. Eljarrat. I would like him to remind the

committee members of the negative impact a measure like the one proposed in Bill C-31 can have.

Mr. Stéphane Eljarrat: Thank you, Mr. Dubourg.

I believe you are referring to subclause 28(3) of the bill, which amends section 241 of the Income Tax Act by inserting subsection 241(9.5). Is that right?

Mr. Emmanuel Dubourg: Yes.

Mr. Stéphane Eljarrat: As I mentioned in my opening statement, I would simply say that the Supreme Court reminded us, in its Slattery ruling, that confidentiality of tax information is fundamental in our self-assessment system.

We have to report all of our income. In order for our system to work and for all Canadians to ultimately be able to benefit from the accurate reporting of all income, they must be able to do so without fear of finding themselves in a situation where this information could lead to charges or a criminal prosecution in an entirely different context. Let us keep in mind that people report their income fully because they are legally required to do so.

However, we have to be careful because our world is changing and we have to adapt. Some of the realities include the fact that the legislation pertains to issues related to terrorism and some extremely serious matters. We need to understand the current situation and the changing world.

We do need to keep in mind that tax secrecy still has some benefits. If people begin to fear providing information, all taxpayers could lose out because part of the income would not be reported, and abuses could take place.

As you mentioned, the Quebec legislation has a provision that is similar, but contains a major difference. I am talking about section 69.0.0.12 of the Tax Administration Act. The provision stipulates that this type of information can be shared, but only with a judge's permission.

I think this requirement—the addition of a judge's permission between the agency and the police authorities—would, on the one hand, help make those information exchanges adequate when they are necessary and avoid their becoming automatic and, on the other hand, help protect both the police investigation and the tax authorities. Those authorities have a dual responsibility. They ensure that taxes are paid in a civil manner and that they can also result in criminal prosecutions in case of tax evasion.

When the authorities conduct civil audits, they have the power to compel—in other words, they can force people to provide information. If the information is compelled, later on, could someone be acquitted of a charge based on the information provided?

That would jeopardize this provision's objective, which is ultimately to obtain a conviction. The ultimate goal is not to charge criminals, but to convict them. So it is pointless to adopt measures that can lead to abuses.

That is why I am recommending that this committee consider the measure adopted in other jurisdictions, especially Quebec, to add a judge to the process. That would help strike a balance between the new reality of fighting some extremely serious crimes and the change to Canada Revenue Agency's role.

• (1610)

Mr. Emmanuel Dubourg: Thank you.

How much time do I have left, Mr. Chair?

The Chair: Two minutes.

Mr. Emmanuel Dubourg: Thank you, Mr. Chair.

You heard what Mr. Eljarrat said. It could not have been stated more clearly.

I would like to ask Mark Tonkovich a question about the Offshore Tax Informant Program. As it was mentioned, this program is somewhat based on the American system.

Was it not due to the fact that cuts were made at Canada Revenue Agency that such a measure for informants was developed in an attempt to generate additional revenue?

[English]

Mr. Mark Tonkovich: I think that's a very reasonable inference to make. This is an attempt to get more tax revenue into the system. More accurately, I think it's an attempt to get tax revenue that may have otherwise escaped the system and should have been there in the first place. So, yes, certainly that is a way to look at the new offshore tax informant program.

[Translation]

Mr. Emmanuel Dubourg: I also think that an in-depth review of the current informant program may be in order. Perhaps the Auditor General should be involved to ensure that the program is working.

It's true that this program has existed for a long time. Is it fairly effective when it comes to leads? How do the Canada Revenue Agency auditors use it? How far do they go with those systems? I think it would also be a good idea to look into everything.

What do you think?

[English]

The Chair: Just a brief response....

Mr. Mark Tonkovich: I think it does make sense to compare the efficacy of the existing program. If the Auditor General is going to do this, then I suggest comparing that as well to, for example, the United States program. How effective is the new award program compared to regular informants or anonymous informants that existed before that program was introduced?

The Chair: Okay, thank you.

We'll go now to Mr. Allen, for seven minutes, please.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you very much, Mr. Chair.

Thank you to our witnesses for being here.

It's probably no surprise that I'm going to start with Ms. Presseault.

Thank you for your kind words, although I know my colleagues are going to remind me of this probably for quite some time after. But I do just want to save the chair from his purgatory, though. We want to do that.

A few questions.... We talked about the unlegislated tax measures. Last week, in the committee meeting, I asked Mr. Cook from the finance department a few questions. He mentioned that the Department of Finance keeps a public listing on its website of draft legislation that has been released for comment or provided to the public. I understand that.

Are you aware of any inventory that's kept out there of unlegislated tax measures that the public would have access to?

Ms. Carole Presseault: Thank you for your question.

I did look at the transcript from last week's committee and there is no inventory. There is not a list of legislation that's out there for public comment, although the legislation that is out for public comment is available on the website. But there's no list of unlegislated tax measures that have been announced in a budget but not been implemented.

Mr. Mike Allen: Okay.

I also asked him about the timelines. Based on the provision in the wording in the legislation, one thing that was good about it is that when you compare it to my bill, it actually brings it up to roughly 18 months before, so it's a good thing. The first report that would be coming to the House of Commons would be in October of this year, 2014. I asked him what happens after 2014. My presumption is that with an election in October of 2015 there would be a delay in some reporting. Then, based on the wording of that government's initiative, when would we see reporting? One of my concerns would be whether we would see regular reporting as a case where, for example, if there was a minority government elected, we might not see a report during the mandate of that minority government.

Can you talk about the timeline as to when we would see reports?

• (1615)

Ms. Carole Presseault: Thank you.

When we saw clause 31 of Bill C-31, we had some concerns around the timelines, and we worked out a table. With the committee's patience, I'll walk you through it.

In June 2013, we had Bill C-48, which removed that considerable backlog. Sometime this year, subject to parliamentary approval, Bill C-31 would be published, and then in October this year, we'd have a report covering the fiscal year 2012-13. That's what it would do. That's what this bill does.

October 31, 2015, presumably will be right after an election. There will be no list, no table. In October 2016 there would be no report. So the earliest we would have the next report would be 2017, covering that period since the writ was dropped.

Basically, over the next three years, you have a report covering 2012-13, and a report covering the period up to March 31, 2016, which you'll have only in 2017. I'm sorry, this is just the way that we worked through the dates.

The report that Parliament will get in October 31, 2017, will be for up to March 31, 2016, but will not cover the period before the writ was dropped. That's where our major challenge is with that. We've called it cumulative

[*Translation*]

for lack of a better word.

[*English*]

That's the word we've used. The problems that were identified by the Auditor General, the former Auditor General previously, was this issue that we're not able to pinpoint the backlog.

Mr. Mike Allen: So on that basis, the last technical tax bill we did was 12 years, and it had 900-and-some pages, 983 or whatnot. In the absence of trying to get a regular reporting mechanism, which I think we all want here, these things will, I think, grow quite exponentially over the years. One of the comments that he made the other day identified 400 technical amendments, of which 250 were outstanding comfort letters. They've gotten that down to just 10 outstanding, but it seems to me there's still a backlog out there.

Is it the view of CGA that we could see this exponentially grow over a period of elections?

Ms. Carole Presseault: That's the tendency. It is what it has....

Ideally, in a perfect world, we would want an annual tax amendment bill to be tabled alongside the budget implementation act. That would be the discipline that we would be aiming for, to have it on an annual basis. But that doesn't seem likely, or even possible.

This is a good interim measure to shine a light on the problem and to understand what the backlog is. Sometimes there are real reasons for a backlog, such as lack of consensus, which is why we support the idea that the report tabled by the minister would be referred to a parliamentary committee to try to sort out some of the challenges prior to formal legislation coming forward.

Mr. Mike Allen: Can you comment on the challenges for small and medium-sized enterprises and others with respect to having a whole bunch of these comfort letters out there, and the challenges to the ongoing business on a yearly basis?

Ms. Carole Presseault: I think the main challenge is around uncertainty. Our tax system resides on a retroactivity aspect. With retroactivity to 12 years, one major problem that we identified when we came forward on Bill C-48 was the fact that taxpayers lose the right to appeal if the measure has not been legislated, yet they still had to conform to the measure. That's the kind of legislative uncertainty that we need to eliminate from the system.

Mr. Mike Allen: In your comment regarding technical amendments, you are referring to a cumulative amendment type of thing. That's what you're referring to. If the technical tax amendments you were referring to in your speaking notes were actually cumulative... so make it that the report is everything, regardless of the government.

• (1620)

Ms. Carole Presseault: Yes.

We would have language to suggest it is removing a few words out of that clause. That would make it so that the minister would not be restricted and would be tabling the retrospective list of technical tax amendments. It's that growing list from one Parliament to another, or from one fiscal year to another.

Mr. Mike Allen: Thank you.

The Chair: Thank you, Mr. Allen.

We'll go to Mr. Cullen, please, for seven minutes.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Chair.

I want to continue on in this vein for just a moment with Madam Presseault.

Mr. Allen's bill is very interesting to us, just in terms of the discipline of government that you talked about. You introduce a bunch of tax initiatives, but the follow-through....

Can you explain for me, in perhaps layperson's terms, the uncertainty for small and medium-sized businesses that your members deal with? What are the impacts of that uncertainty for small and medium-sized business in Canada, with all of these unlegislated tax measures that are out there and existing but that haven't been clarified?

Ms. Carole Presseault: I think when you look at the total cost of compliance of the tax system, this is an incredible...[*Technical difficulty—Editor*]...especially on small to medium-sized businesses. I wrote down a magic number here around the total cost of compliance. Only on the personal side, it is between \$5 billion and \$6 billion at the end of the year.

Mr. Nathan Cullen: That's for personal tax compliance; you're not talking about business tax compliance.

Ms. Carole Presseault: That's only for personal income tax. I think the challenge we have from the small and medium-sized business is that the reliance....

I'm sorry I'm having some trouble with my microphone.

Mr. Nathan Cullen: It's things that the CRA doesn't want to hear; they have power over our microphones. It's incredible that they can do that. They are out there.

Voices: Oh, oh!

Ms. Carole Presseault: Usually the translators find that I speak very fast, so they may be chipping it off to slow it down a little bit.

Essentially it is about the cost of compliance and the reliance on professionals to help them comply with the tax system. It's the uncertainty, and it just adds to the burden.

Mr. Nathan Cullen: That adds to that real cost burden. Governments like to talk a lot about the burdens on business in Canada, with general attention, fixation, on the tax level, what the tax level is for small- and medium-sized businesses and what that impacts on business decisions.

Are you aware of any estimates from the federal government as to the tax compliance costs for small and medium-sized businesses in Canada? Has your organization or the federal government done any kind of assessment of what that figure currently is?

•(1625)

Ms. Carole Presseault: We've not done that assessment, and I don't believe there's a number out there. We can find out for you and get back to you. I know the Fraser Institute has done some work on the personal side but not as much on the business side. I don't think there's a number out there.

Mr. Nathan Cullen: This could be an interesting thing for this committee to explore at some future date.

Having run a small business myself, you start to realize that when you hand it over to your accountant the costs aren't always the costs, depending on the complexity of what you're asking to do.

Do we have a term for the extra...? I'm just looking through this particular...

I think I should comment on process, for our witnesses. Some of you have been at committees before.

This bill is over 330 pages long. It has 30 separate parts. We're going through parts 1 to 4 right now, in an hour and a half. As to any pretense that this bill is getting proper scrutiny, I think you should remove yourselves of that idea. It's very difficult, I would suggest, for all committee members on both sides to actually have decent scrutiny over the implications of what is proposed in such large a piece. So much is put into these omnibus bills. There are measures, like for yourself, Mr. Blackmore, that are affecting some Canadians in search and rescue, other measures that increase the complexity of the tax code, and other measures around whistle-blowers.

I'd like to spend some time here, Mr. Eljarrat.

We have two distinct scenarios in which we're imagining someone coming forward and saying that either someone is cheating on their taxes—and this would be someone in your profession, someone from Madame Presseault's group—or somebody maybe is suspected of contributing to a terrorist organization. Are they distinct within the law? Forgive me, but I'm not familiar with your world. I'm trying to understand. Are those viewed differently by the federal government, or are those two scenarios accepted and considered in the same breath when dealing with the tax code?

Mr. Stéphane Eljarrat: I think a distinction has to be made here. As you mentioned, we in certain questions addressed the whistle-blower program. Within the whistle-blower program, there's a new initiative from the government that deals with offshore taxes. We were discussing the different difficulties that ensue from the fact that there are not sufficient rules to protect the confidentiality of the person providing the information. That's one thing.

Mr. Nathan Cullen: On that, the CRA says, we will protect your confidentiality, unless we can't.

Mr. Stéphane Eljarrat: Yes, that's right.

Mr. Nathan Cullen: That's essentially what they say on their website, and that's what they say—

Mr. Stéphane Eljarrat: That's what they say right now.

If there were at least more rules around protecting the identity of the person, I think it would just help the program. People would feel more comfortable in providing the information.

There are a lot of hurdles. First of all, you have to provide very detailed information. That information has to be of high quality in order to get remuneration, and that has to be included in your income with the proposed rules here.

If you want the program to work, then you want to make sure people feel comfortable enough that their identity will be protected.

Mr. Nathan Cullen: Let me follow that, and then we'll get to the second piece. With \$170 billion—and these are estimates that we deal with—sitting in these tax haven offshore accounts that are not coming through to the Canadian government, the corresponding effort from the government, you would imagine, would be equivalent to somewhere around \$170 billion, which is a lot, and getting it right would also be very important. You wouldn't want any government to put into legislation something that would actually have a counter effect on exposing people who are illegally using tax havens.

Is that your concern?

Mr. Stéphane Eljarrat: No, the concern is at a different level. We're talking at the level that if we accept the fact that, as a society in Canada, we're moving toward the American model—I'm not giving an opinion on that—but we want to go there and want to encourage people to come forward and be paid for it—

Mr. Nathan Cullen: Yes, we want to pay people for it.

Mr. Stéphane Eljarrat: —is that the other program existed before. If we take that for granted, I think the concern mostly with this program, as it is proposed right now, is that there are not sufficient rules to protect the identity of the person.

The CRA, I'm sure, will do whatever they are able to do, but that doesn't protect a person from being sued by third parties. All kinds of things can happen and because of that, the person might hesitate before coming forward with detailed information because international issues are complex matters.

Then they will have to include that on their income. To get 15%, they have to pay income. They might think it is not worth all the hassle if on top of it, there is a risk that their names might be provided. That's my point.

Mr. Nathan Cullen: It's both on privacy and then on what compensation is being contemplated as an individual, you would argue, that we could consider amendments to this legislation to actually get to the goal we are seeking.

The Chair: Very briefly, please....

Mr. Stéphane Eljarrat: The answer is again if we take for granted we want that kind of a program, then, yes. If you are going to pay, the incentive has to be high enough for the person to take the risk of providing that information.

The Chair: Thank you.

Thank you, Mr. Cullen.

We'll go to Mr. Adler, please.

Mr. Mark Adler (York Centre, CPC): Thank you very much, Chair.

Thank you, witnesses, for coming today.

I do want to pursue this with Mr. Tonkovich and Mr. Eljarrat, and talk a bit about the integrity of the tax system, which you two are experts on. Nobody is disagreeing with the fact that, in principle, what you're saying may be correct. Are you saying that at 15%, people are going to be a little less risk averse to exposing themselves to that kind of a scenario? Is that correct?

Mr. Stéphane Eljarrat: That's correct. Take it for granted that we accept the program, that we want it in Canada. I'm just saying that if you compare it to the U.S. model, they are paying much more. What I'm saying is that if you consider you're dealing with offshore tax matters and international tax issues, which are quite complex matters, it will require a lot of work, so the person might think twice about providing information for so little financial incentive.

Mr. Mark Adler: Where would you put that figure? If you were the Minister of Finance, where would you put that?

Mr. Stéphane Eljarrat: Again, it's difficult for me. That's a personal opinion—

Mr. Mark Adler: Where does the U.S. have it?

Mr. Stéphane Eljarrat: They have it at 30%, if I'm not mistaken. It is 15% to 30%.

Mr. Mark Adler: Where are other OECD countries at? What is the general average?

Mr. Stéphane Eljarrat: To my knowledge, not a lot of OECD countries have whistle-blowing programs of that nature, but I won't pretend to have the answer to your question.

Mr. Mark Adler: In principle, you're not necessarily against doing this. What you're saying is that you are just against having the threshold so low.

Mr. Stéphane Eljarrat: There are two things. I do have a fundamental issue at another level, which is that there are two things this program seems to want to aim at. On one hand it's abusive tax planning, and on the other hand, tax evasion.

Mr. Mark Adler: Is it abusive or aggressive? Did you say "abusive"?

Mr. Stéphane Eljarrat: Abusive or aggressive tax planning, yes.

Mr. Mark Adler: But it's not illegal.

Mr. Stéphane Eljarrat: It is illegal. It's just not criminal. Tax avoidance is legal. Abusive tax avoidance is illegal, but not criminal. Then you have tax evasion, which is criminal.

Mr. Mark Adler: Tax evasion is criminal.

Mr. Stéphane Eljarrat: Yes. What I'm saying, as a personal opinion, is that I think that a tax evasion whistle-blowing program should aim at tax evasion or criminal matters, and not at civil tax matters such as abusive tax planning.

• (1630)

Mr. Mark Adler: Okay, would you agree that our government has been effective at enhancing the integrity of our tax system, closing tax loopholes? We have closed 85 of them since 2006. Is that a good thing, in your mind?

Mr. Stéphane Eljarrat: Yes, of course it's a good thing. As Canadian taxpayers, we all want to make sure that all taxes are paid in accordance with the act. There is no doubt about that, so anything that the CRA does to legally collect moneys that are owed to all

taxpayers is a good initiative. The issue is just on the means, how you get there.

Mr. Mark Adler: The reason that it's a good thing to close those tax loopholes is that everybody should be paying their fair share, right?

Mr. Stéphane Eljarrat: Everybody should be paying their share, but on the same principle, we accept that in Canada it's legal to plan your affairs in accordance with the act. As long as you're obviously arranging your affairs in accordance with the act, then there is no issue. But if you're abusing the act, then, of course, that would not be acceptable.

Mr. Mark Adler: Okay.

Mr. Tonkovich, they obviously talk a lot about base erosion and profit sharing and all of that. Could you talk a bit about that in the Canadian context? How effective have we been in the last particularly two years in confronting that problem?

Mr. Mark Tonkovich: I can, but I'll preface that with saying that it's an ongoing issue and an ongoing discussion for all of the OECD countries.

Mr. Mark Adler: Correct, yes.

Mr. Mark Tonkovich: I appreciate your comments about the loopholes that have been closed, and this type of thing. I would observe that some of those are not necessarily loopholes in the sense that something was missing. They may represent shifts in policy, where Canada now has this position that these types of practices should not be permitted. But certainly there has been a lot of activity to try to close these perceived loopholes with a view to improving the integrity of the system and making sure that less escapes the system where the position is that it shouldn't be leaving the country without paying tax.

Mr. Mark Adler: Compared to other OECD countries, how are we doing on that front?

Mr. Mark Tonkovich: I think we are one of the leaders in the OECD as far as trying to think about and consider ways to address these issues. But the OECD countries as a whole are very active on this issue and I think we're all proceeding on that basis.

Mr. Mark Adler: Yes, and Canada is doing well considering that all the OECD countries are pursuing this with a vengeance.

Mr. Mark Tonkovich: I would say that Canada is doing well in thinking about it, yes.

Mr. Mark Adler: In terms of fiscal savings, or moneys that were brought in, earlier Mr. Dubourg referred to the government wanting to just get their hands on money, and it's more about people and corporations just paying their fair share of tax. Is that correct? It's not governments wanting to put their hands on more money, it's just about obeying the law as it stands.

Mr. Mark Tonkovich: I don't see those as being different. I think that underlying all of these tax policy choices is the view that everybody should pay their fair share and where the fair share is set depends on who you ask and which kind of provision you're dealing with.

The Chair: You have one minute.

Mr. Mark Tonkovich: It is an attempt to bring in more tax dollars because this is one of the mandates of the Canada Revenue Agency. It's not to say that they're necessarily doing it without some substance, without particular rules.

Mr. Mark Adler: They don't act outside of the law, do they? They have to act within the parameters of the law that they're given.

Mr. Mark Tonkovich: They are to act within the parameters of the law. Sometimes there are exceptions, but it's a large organization that is carrying this mandate, yes.

Mr. Mark Adler: What do you mean by "exceptions"?

Mr. Mark Tonkovich: Sometimes, as with any organization, there are attempts to get additional tax dollars in creative ways, in creative interpretations of particular tax rules. These follow the process and eventually work their way into the courts and then judges decide whether the CRA's interpretation was correct or the taxpayer's interpretation was correct.

But as a whole, all of these regimes are aimed at making sure that dollars that should be in the tax system remain in the tax system.

The Chair: Okay, thank you.

Thank you, Mr. Adler.

We'll go to Mr. Rankin, please.

• (1635)

Mr. Murray Rankin (Victoria, NDP): Thank you, Chair.

Welcome, to the witnesses.

I'd like to start with Mr. Tonkovich a bit further, if I may.

You spent a lot of time talking about the offshore tax informant program and concerns about confidentiality being provided to informants. I would just like to drill down a little further on that.

You said that there are CRA guidance documents, but I think you put it that there aren't legislative rules defining informant protection. Then we have the common law informant protections that I think Mr. Eljarrat referred to.

My concern is whether you are looking for clear rules that are written into regulations under the Income Tax Act, because if so, is there a concern that they would have to be amended every time in order to give you the comfort you need when the circumstances change? You have flexibility versus clear rules and I just wonder if you would speak a little further about that.

Mr. Mark Tonkovich: Certainly. You will all know this better than I will, being so closely involved and part of the legislative process. But with any kind of system of new rules—we're creating a new regime or proposing a new regime here—there is a set of overall rules, a framework if you will, that could be introduced. This provides basic fundamental propositions about how the system works.

Then to the extent that you require additional particulars in any given situation, there may be room for administrative discretion, or there may be room for Canada Revenue Agency guidance on the particulars. But most of the time when this kind of regime is introduced, it's done by way of an overarching framework and then allowing the CRA or another tax authority to drill down and provide particulars.

This is how the whistle-blowing regime works in the United States. There are legislative provisions in the Internal Revenue Code that give rise to that regime, and then there are regulations below it and there are IRS guidance documents that delve into the particulars.

My comments earlier have to do not only with the informant confidentiality but with providing a framework for the whole of the regime to make it easier for informants to appreciate how this thing is going to work and to make it easier for advisers to advise them as to how things will play out down the road.

[*Translation*]

Mr. Murray Rankin: My second question is for Mr. Eljarrat.

Mr. Eljarrat, as you know, some provisions of the budget apply to the Canada Revenue Agency's Informant Leads Program. The government has announced cuts of \$250 million and 2,500 positions at the CRA.

In an interview you gave earlier this year regarding the Informant Leads Program, you said that the country is experiencing this major culture shift because the CRA was ordered to recover as much money as possible when the downsizing occurred.

What do you mean by "culture shift"?

Mr. Stéphane Eljarrat: This is common practice in the United States when it comes to taxes. For a long time, various federal organizations, such as the U.S. Securities and Exchange Commission, have had well-established programs under which the information provided to help the authorities is paid for in an entirely prescribed manner.

In Canada, this is completely new. We have always had an anonymous lead program, but we have not had a system where people are paid, in a way, for doing Canada Revenue Agency employees' job. In such a system, people would build cases and be paid for that. Afterwards, the CRA could potentially recover some money.

The question that will arise is who is the most qualified to identify cases of international tax evasion. I think the Canada Revenue Agency employees are the best qualified for that task and have the necessary tools. Under this program, the government would be asking third parties to do that work. In addition, this could result in the CRA spending money on investigating pointless leads, since those third parties may submit poorly built cases.

Tax evasion is a complex issue. Everyone understands what tax evasion is and its criminal nature, but other cases will be fairly complicated.

So we are witnessing a culture shift.

[English]

Mr. Murray Rankin: Thank you.

How much time do I have, Mr. Chair?

The Chair: You have about two and a half minutes.

Mr. Murray Rankin: All right.

You talked to Mr. Adler, and I think Mr. Tonkovich talked about our 5% to 15% range for tax collected and for the tipsters, if I can say that. The Americans are 15% to 30%. But I think one of you—and I can't recall who—suggested that some of the OECD countries don't even do this. Do you know of any reason why they haven't chosen to follow that path? Do you know of any reasons why they don't share that policy?

Mr. Stéphane Eljarrat: I think maybe it goes back to the comment that was made earlier regarding the issue of culture. In some countries, especially in European countries, the whole aspect of whistle-blowing is something that is not very enshrined or very well looked upon. So I think culturally that's why it is different. In Canada I think we're moving closer to the U.S. model from that perspective.

• (1640)

Mr. Murray Rankin: Do you agree?

Mr. Mark Tonkovich: I would agree with that. I think it is a cultural point of view. I would comment that the United States has even more advanced systems than this in certain tax-related whistle-blowing contexts. In the customs context in the U.S., a whistle-blower would actually do some of the background work themselves and would file suit on their own behalf against the potential tax evader or avoider. Then the U.S. authorities, if they believe in the suit, if they agree with pursuing it, would take over the suit. So there's a range of involvement out there.

I do believe, as my colleague mentioned, that many, if not most, of the OECD countries do not have a system like this, and it probably is a cultural divide.

Mr. Murray Rankin: I will now have a question for Ms. Presseault.

Welcome. This will be one of your last presentations. You, of course, work with the Certified General Accountants Association of Canada, and as you know, the budget implementation act does not renew the small business hiring tax credit. CGAs are well aware of the impact of tax measures on small businesses, so I'd like to know what kind of financial impact you think terminating the small business hiring tax credit will have on small businesses. It seems to me it would come as a blow to them.

Ms. Carole Presseault: Thank you, Mr. Rankin, for your question.

Actually, it's not something we've looked very closely at. We try to refrain from looking at specific tax credits for the simple reason that, when we look at a taxification agenda, we're looking at trying to minimize and streamline taxes and see if there are other ways of putting money back into the pockets of entrepreneurs or small businesses that are not related to tax credits specifically or to targeted tax measures.

We were talking earlier about the costs. According to the Canadian Federation of Independent Business, we're looking at a cost to SMEs of around the same as the cost for compliance, which is about \$6 billion. If you weigh that against the hiring tax credit, I think there has to be some balancing. How do you look at the tax system and make it more efficient and make it more fair in the sense that everyone pays their fair share, but on the other hand, it doesn't cost too much to comply with?

The Chair: Thank you.

Thank you, Mr. Rankin.

Mr. Leung, go ahead, please, for seven minutes.

Mr. Chungsen Leung (Willowdale, CPC): Thank you, Chair.

I wish to address my question to Ms. Presseault. Simply to set the frame of this, some 40 years ago I was in public accounting, one of the big fives. Subsequent to that I was also a director of a public corporation, so I have experience dealing with management reports and so on.

Throughout this entire period, this evolution of looking at how our tax act went, pre-1972, from a quarter of an inch to about two inches to the stacks of interpretation bulletins—FASB and IAS and so on—I think this is what kept more than one accountant employed.

I'd like to hear your thoughts about something quite simple. Can we go back to cash-base accounting, for one. If not, because we do have this issue of having to handle accruals, because government wants to be in there to make the system fair, we start having assets. One of the things that I think would really help us is to do a re-evaluation of assets across the board every 10 years, so we are now dealing with a base 100 every 10 years and we don't have to go back and deal with assets that are sitting in a closet that probably we have lost the original documents for.

On those two specific points, I'd like to hear your comments as to how we can simplify the tax act. I appreciate Mr. Allen's proposal to bring all these things up, because every time we go through a budget we wonder what's missing, and what's not missing. Let's simplify all that and do another evaluation.

Ms. Carole Presseault: There are some people in this room much better qualified than I am to answer those very specific questions you have, but certainly some of the ideas of going to cash-base accounting would simplify methods. But when we're looking at tax simplification, we do face how big it has grown. Not only has it grown, we talk about the uncertain part, the grey pages of the Income Tax Act being larger than the actual income tax.

We have about five ways of looking at it. I'm going to answer your question in a very circuitous manner. We're looking at a system that would be fair to all groups, efficient, the least cost to administer—we've talked about that—simple, and have clear rules.

Business is complex. When we talk tax simplification, we're not talking about making it simple in the sense of minimizing. Business is complex, and I look at some of the measures in this legislation, such as legislation regarding hospital parking. These are four or five clauses. These are complex issues. But there are simplified methods that we look at, and of course the certainty we talked about when we looked at clause 31, in terms of competitiveness when compared to other OECD countries.

I'm not answering your question because I can't, but I'm telling you about the five ways by which we would see a simplified tax system.

•(1645)

Mr. Chungsen Leung: I also wish to address an issue about tax havens, because I've dealt with Cayman, B.V.I., Tonga, Hong Kong, Singapore, Labuan, in my past history.

It seems to me if we keep taxes at the lowest we can, then Canada should be the tax haven itself. Therefore we wouldn't have to deal with any of these problems, because the only reason people use tax havens is to receive a lower tax jurisdiction.

We are already at 15%, one of the lowest tax jurisdictions, even compared to Hong Kong at 16.5%. Is there any benefit in harmonizing or at least getting the provinces to harmonize our tax system federally so that we can have one uniform tax system apply across the board for all of Canada?

Your comments, please, Mr. Eljarrat....

Mr. Stéphane Eljarrat: You're asking a very charged question. Coming from Quebec, I think it's a difficult question. But that being said, in general, harmonization is of course something that should be viewed in a positive light because it simply is helpful in the sense that we are in a global economy and Canada is competing with others. We need to make sure we have the most competitive tax system to encourage investment in Canada.

Mr. Chungsen Leung: Maybe in future Parliaments we should infer that.

Mr. Tonkovich, did you have a comment on that?

Mr. Mark Tonkovich: I agree. Harmonization is something to strive for. It will make the environment simpler. On the government's side, it will make administration easier, and cheaper, frankly.

However, I think we all know this can be a long set of discussions, and different provinces and different authorities will have different views on exactly where that harmonized system should sit.

Mr. Chungsen Leung: Mr. Chair, may I ask one more question?

The Chair: You have about two minutes.

Mr. Chungsen Leung: My last question has to do with the fact that in Canada we look at an entire tax pie. We now collect more taxes from individuals than we do from corporations. But if you look at other jurisdictions like, I believe, Taiwan, Hong Kong, and Japan, their idea is "no, it's harder to go after the individual for taxes, why don't we go after corporations?", so that most of the taxes are at the corporate level. When it comes down to the individual level, there is a very high threshold like \$25,000 or \$30,000 that is exempt from tax.

Do you believe that would simplify the tax system? In other words, should we pick up more of the tax revenues from corporations rather than from individuals?

Ms. Presseault.

Ms. Carole Presseault: Well, it's about being competitive. It's about being competitive with other trading partners. It's about being competitive to attract businesses here that create jobs that employ taxpayers who pay taxes and put money back into the system. So I think those are important policy choices. Our associations have a position on that, but if you were to ask me what I thought, I think that's part of the discussion we have to have around what is the appropriate balance of the taxation, and whether everyone is paying their fair share and how we define their fair share.

Mr. Chungsen Leung: Mr. Tonkovich.

Mr. Mark Tonkovich: I don't think that there's a conclusive answer to any of this, but there's also the obvious theory that taxing corporations is really going to be a tax on their shareholders or on consumers. It all passes through. So I agree with my colleague that this is a complicated tax policy question. The goal has to be to make sure that we bring in enough revenue to keep the system running while making it as competitive a place for business to attract more investment from outside.

Mr. Chungsen Leung: Mr. Eljarrat.

Mr. Stéphane Eljarrat: I tend to agree on this, for sure. Canada wants to make sure that its tax system is as attractive as possible. Again, I'm repeating that we are competing in this global economy with other countries that are taking all kinds of measures with different points of view on different policies, but at the end of the day, we have to make sure that we keep on top and be attractive for foreign investment.

•(1650)

Mr. Chungsen Leung: So my closing conclusion is that as long as we keep Canada as a low-tax jurisdiction, then we are on the right track.

Mr. Stéphane Eljarrat: That I agree with.

The Chair: Okay. Thank you.

Thank you, Mr. Leung.

I'm going to take the next round. I wanted to start with Ms. Keleher Raffoul. You've talked about the situation with respect to the GST/HST and hospitals, and I appreciate your comments there very much. I just wanted to know if you or your organization has any comments on the expansion of the medical expense tax credit in this piece of legislation? Is that something your organization has looked at in terms of this bill?

Mrs. Beatrice Raffoul: No, we have not looked at it or taken a position as an association on it, so I can't comment.

The Chair: Okay. I appreciate that. If you do have any further comments for the committee, please feel free to submit them. We'd appreciate that.

Mrs. Beatrice Raffoul: Great. Thank you.

The Chair: I have just a quick question for Ms. Presseault. In your opening statement you talk about an amendment to really encapsulate what Mr. Allen put in his private member's bill. Do you have an amendment or a suggested wording that would change this budget implementation act to ensure that we are capturing the intent of that legislation, of his private member's bill?

Ms. Carole Presseault: I do, and I'm just going to turn to clause 31.

In clause 31 at proposed paragraph 162(2)(a), striking the words "after the last general election and" would probably fix it.

The Chair: Just striking that phrase from it...?

Ms. Carole Presseault: Yes, "after the last general election and".

The Chair: I appreciate that very much.

Next, I wanted to move to Mr. Tonkovich. In your opening remarks you talked about...and I tend to agree with Mr. Keddy on this. In your third point you said that it's also unclear to what ends the CRA will go to protect the informant's identity. So what do you see as necessary either from a legislative, regulatory, or policy point of view in order to do that, in addition to CRA's mandate that it has right now?

Mr. Mark Tonkovich: I think the one concern with that is that there is a statement in the context of the CRA's guidance documents that they will work to protect the identity, and I'm not sure what the phrasing is, but it's to the effect of "to the extent possible", something like that.

I think that this is a good start, but at the end of the day, it is simply an interpretation. It's simply a guidance document that has been posted on their website. There are limited ways that taxpayers or informants could enforce those types of statements, and including even a statement of the same type of principle in a legislative provision or in a regulatory provision will give that much more comfort. However, there are ways to beef up that kind of protection.

The Income Tax Act itself defines protections like solicitor-client privilege. There would be the ability to extend a broader protection in a legislative provision saying the identity will not be disclosed except in these types of circumstances. I think that this is a policy choice to decide precisely how far Parliament wants the protection to go, but I think the point is that the choice should be made, rather than simply leaving it as a vague comment that may or may not be enforced against the CRA.

The Chair: I have your opening remarks, but your schedule here simply relates to the provisions in this particular bill. These are not suggested amendments to the bill.

Mr. Mark Tonkovich: That is correct.

The Chair: Do you have suggested amendments to the bill or things that the committee should consider?

Mr. Mark Tonkovich: I do not. I may be able to put something together if that would be of use to the committee.

The Chair: I would appreciate that.

The next point I wanted to raise is that you say, "An important public institution such as the CRA should not be seen as encouraging taxpayers or their advisers to cheat or steal to obtain potentially helpful tax information in order to make a buck."

Can you expand on that for me?

Mr. Mark Tonkovich: Certainly.

The concern here is that there are obviously different ways that informants could obtain the information that may be useful to the Canada Revenue Agency to go after tax avoiders.

It could be in the context of a professional relationship. It could be a lawyer-client relationship. It could be a CGA relationship. It could be any number of professional advisers. It could also be employees that are part of that offshore organization or a Canadian organization that has an offshore office, for example. Because there are so many different ways this information can be obtained, it's not clear whether there are any limits to how that information is obtained. It's not clear whether the Canada Revenue Agency will have concerns with stolen information and stolen hard drives or whether it should have concerns.

This again is another policy decision that should be made if there are any limits that the CRA wants to put on the type of information that can be used, because it's one thing to say we want whatever kind of information would help us go after these tax avoiders and it's another thing to say there are still practical limits here. We don't want the informants to be viewed as agents of the CRA who are going out and stealing those hard drives if that's something that Parliament doesn't want to happen.

•(1655)

The Chair: Do the U.S. or other jurisdictions have limits? If so, what limits do they have in place?

Mr. Mark Tonkovich: They do have limits. I am not able to comment to a full extent as to what those limits are. Most of them have to do with how involved the informant is in the particular tax avoidance work or the tax evasion. If they are involved and personally benefiting then there are limits on what kind of awards can be paid out. But again, this is another policy decision that should be made. The only example that comes to mind in the criminal context, which is different than the civil tax avoidance context, is that there is a balancing that takes place between how information or evidence is obtained and how it should be used against a particular individual. This may be a situation where a similar type of balancing, perhaps with some overarching rules, would be useful.

The Chair: I have about 30 seconds.

Mr. Eljarrat, do you want to address any of that? Or do you largely agree with Mr. Tonkovich?

Mr. Stéphane Eljarrat: On your question on protection of informants, I think there is going to be a distinction to be made between the informant who provides information in the context of tax evasion, which is a crime, which would benefit from the police informant protection at common law, which courts have a duty to enforce unless there are special circumstances where innocence is at stake....

Where it becomes more difficult is when we're talking about informants who will provide information in regard to abusive tax planning and that type of thing, which is of a civil nature. That protection would not apply. Therefore there should be protection. If they're going to have real protection, that protection should be provided by law.

Like my colleague, Mr. Tonkovich, just mentioned, I think it's important that if the Canada Revenue Agency wants to encourage people to come forward, people have to know what they're getting into. So amendments in that regard would be helpful.

The Chair: Okay. I appreciate your comments.

I want to thank all of our witnesses for being here this afternoon and for appearing with respect to this budget implementation act. If you have anything further for the committee to consider, please submit it to the clerk and we'll ensure that all members get it.

Colleagues we'll take a break for a few minutes and then we'll bring forward the next panel.

Thank you.

- _____ (Pause) _____
-
- (1700)

The Chair: I call this meeting back to order and encourage colleagues and our next panel to take their seats, please. We are resuming discussion here of Bill C-31, an act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

At our second panel here this afternoon and evening, we have four individuals presenting. First of all, from the Canadian Cancer Society, we have the president and CEO, Ms. Pamela Fralick—I always forget, is it Fralick or Frolick?

- (1705)

Ms. Pamela Fralick (President and Chief Executive Officer, Canadian Cancer Society): Fralick. Well done.

The Chair: It's Fralick, okay. Welcome back to the committee.

From the Canadians for Tax Fairness, we have Mr. Dennis Howlett. From GrowthWorks Atlantic Limited, we have the president and CEO, Mr. Thomas Hayes. As an individual, from Victoria, British Columbia, we have Professor Lindsay Tedds.

Ms. Tedds, can you hear me okay in Victoria?

Prof. Lindsay Tedds (Assistant Professor, University of Victoria, As an Individual): Yes, I can. Thank you.

The Chair: Okay, welcome, and thank you for being with us today.

You will each have five minutes for an opening statement, and then we'll have questions from all the members.

We will begin with the Canadian Cancer Society.

Ms. Pamela Fralick: Thank you very much, Chair.

Honourable committee members, we do thank you for the invitation to testify today.

We strongly support the tobacco tax increase included in the federal budget and in Bill C-31. This measure will reduce youth smoking and it will save lives. It is that simple. Higher tobacco taxes are the single most effective strategy to reduce smoking, especially among youth. We want no new smokers.

We urge all parties to support this measure. In fact, the increase to federal cigarette taxes in Bill C-31 of \$4.03 per carton of 200 cigarettes is merely an inflationary adjustment, though a very much needed adjustment. Prior to this change there had not been a net increase to federal tobacco taxes since 2002, a stretch of fully 12 years. This meant that the real federal tobacco tax rate was actually decreasing once inflation was factored in. There is a vast body of worldwide evidence that confirms the obvious. As tobacco prices go up, tobacco consumption goes down. The studies show that a 10% increase in the after-inflation price results in a decrease in tobacco consumption of about 4%, and even more with youth.

The tobacco tax increase is a win-win, benefiting public health and public revenue. Tobacco use and tobacco-caused disease and deaths will decrease, and almost \$700 million in incremental annual federal tobacco tax revenue will be generated.

Let me address the contraband issue. Many associations funded by the tobacco industry responded to the federal tobacco tax increase by referring to contraband. These organizations have a long history of opposing tobacco control measures. Here are some facts.

Contraband has decreased substantially in Canada, as admitted by the tobacco industry. In our binder, which I hope you have, tab 1, a graph from British American Tobacco says that Canada-wide contraband was 17% in 2006; 22% in 2007; 33% in 2008; and then down to 19% in 2010. A graph on that same tab from Philip Morris also indicates a declining trend. As well, federal and provincial government tax-paid sales data for these years, as well as subsequent years, confirm a dramatic decrease in contraband.

Tab 2 of our binder shows a massive growth in price-discounted cigarettes sold legally by tobacco companies. The tobacco industry has reduced prices by \$20 or more per carton on some brands, and the federal tax increase of \$4 per carton counters only part of this.

Tab 3 of our binder contains a graph showing provincial and territorial tobacco tax rates. Tobacco taxes are far higher in western Canada than in Ontario and Quebec, yet contraband volumes in western Canada are minimal. This graph illustrates that the cause of contraband, as we have it in Canada today, is not high tobacco tax rates. Higher tobacco taxes and low contraband are both possible, as the western provinces have shown.

There's no doubt that additional contraband prevention measures would have a further beneficial effect. We support the announcement in the budget for an additional \$92 million over five years for contraband enforcement, and we continue to endorse Bill C-10, the tackling contraband tobacco act.

As well, we have other recommendations for contraband prevention.

First, the RCMP should pay more attention to blocking the supply of raw materials, such as leaf tobacco, cigarette paper, and cigarette filters intended for illegal factories. Second, the federal government should modify plans to move the Cornwall border post to a new location in Massena, New York. Instead, there should be a two-part border post with checkpoints in both Massena and Cornwall to better intercept contraband. Third, the federal government needs to persuade the U.S. government to shut down the illegal factories on the U.S. side of Akwesasne.

The tobacco tax increase and contraband prevention measures in the federal budget are essential components of a comprehensive strategy that should also include, one, a ban on flavoured tobacco products; two, plain packaging, as has been implemented in Australia; and three, sustained, well-funded programs by Health Canada.

Tobacco use remains the leading preventable cause of disease and death in Canada, killing more than 37,000 Canadians each year. Smoking is still responsible for 30% of all cancer deaths, and there are still five million Canadians who smoke, and too many children.

• (1710)

I will finally comment, as I close my presentation, and express support for another measure in the federal budget, lotteries and the proposed legislative change to allow charities to use computers and other modern technologies in their lottery ticket sales and operations. It will reduce administration costs and allow the Canadian Cancer Society and other charities to direct more money to their important program services and research.

Thank you so much.

The Chair: Thank you very much for your presentation.

Now we'll hear from Canadians for Tax Fairness.

Mr. Dennis Howlett (Executive Director, Canadians for Tax Fairness): Thank you for this opportunity to comment on the parts of Bill C-31 related to tax havens.

We support the implementation of several measures that aim to go after tax cheats using tax havens that were announced in the 2013 and 2014 federal budgets, which are contained in Bill C-31. But we feel these limited measures do not go far enough in dealing with what is a growing problem. We would like to suggest some

additional measures that should be considered if the government is serious about going after tax cheats using tax havens.

First of all, we welcome the improvements to the Canada Revenue Agency's ability to provide feedback to the Financial Transactions and Reports Analysis Centre of Canada and to law enforcement agencies. These are fairly minor changes, but they will help make enforcement more efficient. There may be some reduced privacy aspects here, but we feel they are justified in view of the social benefit as a whole.

Second, in terms of reporting, some of the changes on tightening up provisions and the regulation of electronic transfer of funds are also a welcome step, especially including casinos, which are a preferred method of money laundering. Tax cheaters and organized crime syndicates are always trying to find ways to circumvent the regulations, so it is logical that the government should be always trying to stay a step ahead and close off any holes in the monitoring system.

Third, on the offshore tax informant program, information from informants is one of the ways in which tax authorities are able to lift the veil of secrecy that is the hallmark of tax havens and identify individuals and companies that are evading paying their fair share of taxes. But we should not expect that this program is going to result in that many convictions.

The IRS Whistleblower Office in the U.S. just published a 2013 report that shows the U.S. collected \$367 million as a result of whistle-blower information from just six cases last year. There were 12 cases in 2012, and a slightly larger amount of money was collected. Canada is roughly 10% of the U.S. economy, so we are not likely to see more than a few cases in a year.

The U.S. Whistleblower Office annual report also notes that cases typically take five to seven years from receipt of submission to be settled and claims paid, so it may be a number of years before we will see any tangible benefits to Canada.

Maybe the most important aspect of this measure may be the deterrent effect, which will be hard to quantify. But in order to maximize the deterrent effect of this measure, the government needs to do a more energetic job of public promotion and education. This is one program where spending some public advertising dollars, raising awareness about this program, would be justified.

The other issue that needs to be addressed is the protection of confidentiality of whistle-blowers coming forward. I have personally been contacted by several potential whistle-blowers who were seeking information on how they should go about accessing the offshore tax informant program, but were very worried about their safety. I know there are some provisions to protect tax confidentiality, but the CRA website does not give adequate assurance, and the government needs to do more to reassure potential informants.

The tax haven problem is growing, as we have recently shown in a Statistics Canada report on direct offshore investment abroad. They are up 10% over last year.

On some of the additional measures that we feel are needed, one would be to provide the CRA information needed by the Parliamentary Budget Office to complete a tax gap estimate. Second, increase the capacity of the Canada Revenue Agency to go after tax cheats. Third, make amendments to the general anti-avoidance rule to include a clear statement that economic substance is required in any transactions to be considered. Fourth, Canada needs to support substantive reforms of the international corporate tax rules that are being developed through the OECD base erosion and profit shifting process.

• (1715)

I'd be happy to answer questions about that, if you like.

The Chair: Thank you very much for your presentation.

We'll go to Mr. Hayes now, please.

Mr. Thomas Hayes (President and Chief Executive Officer, GrowthWorks Atlantic Ltd.): Thank you, Mr. Chair, for the opportunity today to appear before you and your colleagues to address important issues that relate to the venture capital ecosystem in Canada.

In its March 2013 budget, the federal government announced a surprise phase-out of the long-standing 15% federal tax credit for Canadian investors who have chosen to support budding entrepreneurs across Canada who want to start and grow their businesses. This federal tax credit has resulted in the levering of billions of private dollars of risk capital from over millions of Canadians who have been available to our early-stage companies since the early 1980s. In fact, since the program was created by the Mulroney government, well over one-third of all venture capital available in Canada has come from labour-sponsored venture capital funds in British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia, and Newfoundland and Labrador.

Despite the best efforts of many individuals across the country to convince the federal government to reverse its decision to phase out the federal tax credit, the industry is now faced with the reality of moving forward and dealing with a number of challenges that result from the withdrawal of the tax credit. The biggest of those challenges is fund liquidity and the adverse impact that issue may cause for existing shareholders in our funds and for the portfolio companies in which our funds have already made investments.

The Department of Finance has indicated there will be changes made to some of the rules governing federal investment pacing obligations for labour funds that want to exit the program, which at first glance appears to be helpful during the transition process. However, these same funds have provincial pacing obligations, which are not forgiven on the same basis as the proposed federal changes, so funds are still obligated to invest their shrinking capital base, which further exacerbates the liquidity issue. It would be helpful if the federal Department of Finance would work collectively on this matter with its provincial counterparts.

We also know the federal government is changing its approach to ensuring an adequate supply of venture capital is available to Canadian entrepreneurs and companies by directly investing \$400 million of new capital into the industry. Many of us in the industry have been supportive of this initiative, now known as the VCAP program. It's my understanding that further positive announcements will be made by early fall about additional private sector funds that will be chosen to participate in the VCAP program.

While these announcements will be welcomed by the industry, a word of caution is in order. The choice of additional funds that will qualify for federal VCAP funding is only the first step in creating new pools of capital for Canadian entrepreneurs. These chosen funds then have the significant challenge of seeking matching private funding before they are in a position to actually write cheques to Canadian entrepreneurs seeking risk capital. How long this process of raising private capital will take and how successful these funds will be in this endeavour is anyone's guess. On that basis alone I would ask the federal government to reconsider an extension of one to two years for the existing federal 15% tax credit to ensure there is a continued adequate supply of venture capital while the VCAP program gets up and running.

In closing, the particular fund I manage operates in Atlantic Canada and I want to say a word about the Atlantic Canada Opportunities Agency and the positive impact it's making in our region in the start-up community. We like to say that if you think it's difficult for an entrepreneur to raise venture capital in central Canada, come on out east and see how challenging it is in our region. ACOA has become a very important source of non-dilutive capital for very many local companies, and an excellent partner for those of us in the private sector who are also investing in these companies. We appreciate their good work and I just wanted to make sure your committee is aware of this fact.

Thank you for your time and I will be pleased to answer any questions you may have later in the session.

• (1720)

The Chair: Thank you very much for your presentation.

We will now go to Professor Tedds in Victoria, please.

Prof. Lindsay Tedds: Thank you. Good afternoon.

I assume you can hear me?

The Chair: Yes, we can.

Prof. Lindsay Tedds: Thank you.

My name is Dr. Lindsay Tedds. I am an associate professor of economics in the school of public administration at the University of Victoria. My primary area of expertise is Canadian tax policy, with a particular focus on design and implementation.

With that, I would like to thank the committee for allowing me the opportunity to share my views on two tax-policy measures that are contained within Bill C-31. This is mainly the elimination of the need for individuals to apply for the GST/HST tax credit, allowing the Minister of National Revenue to automatically determine if an individual is eligible. I'd also like to talk about yet another one-year extension of the mineral exploration tax credit for investors in flow-through shares.

With respect to the GST/HST credit, one of the biggest challenges levied against the tax itself is that it is regressive. However, there are features of the implementation of this tax that offset its regressivity, and a very important part of that is the GST tax credit. This tax credit puts money in the hands of low- and middle-income households to offset the tax that they are paying on their consumption.

Without the passage of Bill C-31, the status quo for applying for this important tax credit will remain and that is very unfortunate. The current administration of this tax credit requires individuals to apply for it every single year by checking a box on their tax application. By using this opt-in method, low-income individuals who overlook the box, or more importantly, do not understand the box and do not check it, miss out on this very important tax credit. Through Bill C-31, the federal government is making a very significant and very important reform to the administration of the GST/HST tax credit by eliminating the need for individuals to apply for the credit and allowing CRA to automatically determine if an individual is eligible for the credit, as we do with most credits in the tax system.

I applaud this move away from an opt-in method towards an assessed method because the credit is an important way to get money into the hands of low- and middle-income Canadians and this simple change will actually increase the money going to these households.

With respect to the mineral exploration tax credit, in form and function this tax credit dates back to 2000 when it was called the investment tax credit for exploration. The impetus for this 15% non-refundable investment tax credit for investors in flow-through shares in mineral exploration companies was the low prices of metals that occurred in the 1990s, and those low prices caused a significant contraction in mineral exploration. Now, metal prices have rebound significantly since 2000 and that tax credit, which originally was set to expire in 2003, has unfortunately been continually renewed since that time. The METC was last set to expire on March 31, 2014, but Bill C-31 extends it for yet another year. This is despite the fact that mineral taxes are at historically high levels and in fact have increased threefold since the tax credit was implemented.

Not only have the conditions that prompted the creation of the tax credit disappeared, there is actually no evidence to support the existence of the tax credit. There is no evidence that the credit induces increased exploration activity over that stimulated by commodity prices. On the investor side, the credit subsidizes high-risk investments that are used predominantly for tax planning purposes by high-income taxpayers rather than for calculated investment purposes.

The dire consequence of it is that the tax credit channels investment money away from other more lucrative but unsubsidized investments. In fact, the rate of return of investments that qualify for this tax credit is very poor, suggesting that the tax regime is the sole

purpose for these investments. On the administrative side, the METC regime is associated with high administrative and compliance costs benefiting only tax lawyers and accountants.

It is time to end this tax credit that benefits wealthy investors and subsidizes poorly performing investments. Doing so will help restore fairness to our tax system and close a loophole with little discernable benefits for the taxpayers who fund it.

In closing, I'd like to thank you for providing me with an opportunity to provide you with my views on these two measures, and I look forward to your questions.

Thank you.

• (1725)

The Chair: Thank you very much for your presentation.

We'll begin members' questions.

[*Translation*]

We will begin with Mr. Caron.

You have seven minutes.

Mr. Guy Caron: Thank you very much, Mr. Chair.

I want to thank all of our witnesses for their presentations.

I will first go to Ms. Tedds.

[*English*]

I'll do it in English because I know the distance from translation might be problematic.

I'm looking at your presentation, which seemed to be well researched. You talk about two issues: the GST credit and the flow-through shares. Both of them are actually tax expenditures in their own way. They are basically a way for government to provide some benefits to groups or individuals that decrease their revenues, correct?

Prof. Lindsay Tedds: Correct.

Mr. Guy Caron: I note that you've done lots of work not only on this presentation but also, in the past, on the issue of tax expenditures. I'd like for you to explain to us the difference between the type of tax expenditures we have with the GST/HST tax credit and with the flow-through shares, or any other tax credit, per se. There are some tax credits I understand you are in favour of, and others that you are not in this case, right?

Prof. Lindsay Tedds: It really boils down to the rationale for the tax credit. The benefit of the GST tax credit is predominantly to overcome the regressivity of a tax measure that we have implemented. So consumption taxes are known to be highly regressive; that is, they affect low-income households on a greater proportion of their income than high-income households. Through the tax credit, we are crediting these individuals for the tax they are paying, as a way to overcome this regressivity. We are putting the money back into the hands of low- and middle-income households to help overcome the regressive nature. This helps address issues related to poverty, particularly. So you are benefiting low- and middle-income households.

With respect to boutique tax credits like the METC, they are targeted to high-income individuals, individuals who do not need income support in order to increase their well-being. So with the METC, we're looking at a tax credit that solely is there to subsidize an investment that would not take place without that tax credit. It's very questionable whether there are any discernable benefits to taxpayers from that particular tax credit. That is true for tax credits such as the children's fitness tax credit and other boutique tax credits. The benefits accrue in the hands of high-income individuals at the expense of low-income individuals.

Mr. Guy Caron: I'd like to go on with this because I have a column, an op-ed, that you wrote on the issue of the fairness in Canada's tax system. You refer to this, and I'll quote you:

Some of these tax expenditures may be popular with tax payers, but their popularity is misplaced. For example, research has found that the Child Fitness Tax Credit and the Public Transit Amount, directed \$107-million (70 per cent of the value of these tax credits) in tax relief to the top 25 per cent of tax filers. Because these tax credits are non-refundable not all households that claim them actually derive any benefit at all, demonstrating the complexity these credits add to our tax system.

We had Madam Proulx, from the CGA, who came and talked to us about the complexity of the tax system.

Could you tell us what a good guideline would be to decide if a tax credit is appropriate and useful, and which ones would be less efficient?

• (1730)

Prof. Lindsay Tedds: As an economist, efficiency is a dangerous word. What exactly do you mean by efficient?

Mr. Guy Caron: That it would not be more efficient to provide some kind of direct subsidy if we wanted to reach some direct goal of public policy, for example.

I'll just tell you what I'm aiming at right now. We have tax expenditures that are usually invisible, and many of them are aimed at some kind of public policy, which you could achieve by making the action more visible, like having a subsidy, or having it on the books and the budgets, for example. What should the guidelines be to decide what should be a tax credit and what should be a direct expenditure?

Prof. Lindsay Tedds: One of the most important things to consider is whether or not what you're doing is going to produce any incremental benefit. Let's take the child tax fitness credit. The goal of that was to increase the number of kids in athletic sports. What we do know from the evidence is that it has had no discernable impact on the number of kids participating in sports. It is instead subsidizing parents who are already putting their kids in sports.

If the vehicle itself doesn't deliver on what is a very admirable policy goal, then it isn't the appropriate tool to use to achieve that goal. In that case, subsidies toward low-income households, or at least toward supporting reduction in fees of low-income households to participate in sport, would have a bigger incremental effect. It induces those households to enrol their kids in that sport because they get the benefit right away. They don't have to wait a year or a year and a half after they have enrolled their child to get the money back from that expenditure.

I wouldn't say there's a carte blanche rule. It's this matter of what you are trying to achieve and whether the tool will achieve that. In most cases when you're looking at incremental benefits, if you're trying to get more people doing something, the tax credit isn't the way to go.

Mr. Guy Caron: Thank you very much.

The Chair: You have 30 seconds.

Mr. Guy Caron: I'll go to Mr. Hayes.

Very quickly, you know about the elimination of the tax credit on labour-sponsored venture funds. It was voted on and adopted last year.

How is the capital venture industry right now adjusting to these changes?

Mr. Thomas Hayes: The retail industry, the labour fund industry, is very concerned about the impact that this will have on liquidity in the next few years. It has sent a message that 50% of the tax credit is going to be eliminated for investors. It has created great doubt by those of us in the industry, as well as the investment advisers who support the industry by recommending the asset class to their investors.

Of course, it has also caused great concern for the portfolio companies who are relying on our funds for follow-on investments and entrepreneurs who are looking for new investment in their companies.

The Chair: Thank you.

We'll go to Mr. Keddy, for your round, please.

Mr. Gerald Keddy: Thank you, Mr. Chairman.

Welcome to our witnesses.

Mr. Hayes, you spoke briefly about economic action plan 2012 and the government's commitment of \$400 million to help increase private sector investments in early-stage risk capital. Then, under the venture capital action plan, which you also mentioned, in 2013, it was a more comprehensive plan to reinvigorate the venture capital sector and seek private capital matching funds.

Do you want to expand a bit on the difficulty of finding those private sector matching funds? You mentioned it, but you didn't go into any detail.

Mr. Thomas Hayes: If you look at the last 10 years in Canada, there has been a dearth of venture capital generally. The challenge has been trying to get institutional pension funds, endowment funds, and corporations to invest in the asset class.

The federal government has attempted to motivate these groups to match their funding. They are putting their money in and hoping to attract private sector money to match those funds. In concept, this is great, and we support that. I think the issue is going to be how long it is going to take, and whether those players are ready to play ball and match the federal government's efforts in this area. The concern we have is that by eliminating the federal tax credit for the retail investors, there could be a significant gap until those new funds are up and running.

We just don't know how long it's going to be before these new pools of capital will be available for entrepreneurs to access. On paper it sounds great. I hope it's very successful, but we think it's going to be months, and maybe a year, before these new funds have the ability to cut cheques.

• (1735)

Mr. Gerald Keddy: The provision in 2013-14 of an additional \$100 million in the incubator fund, I think should help to alleviate some of that.

Mr. Thomas Hayes: To some extent....

BDC has been quite active, and we're again supportive of their efforts; there's no question. But when you look collectively at the amount of capital that the labour funds have been investing across the country, and in particular in Quebec, that could cause a significant gap in terms of accessibility and availability for entrepreneurs.

Mr. Gerald Keddy: Thank you.

Maybe just in closing.... In recognition of your comments on the Atlantic Canada Opportunities Agency, just to blow our own horn for a second, I think the government has done a better job with that. It is now the model for regional economic development across Canada.

Mr. Thomas Hayes: They have become an important player for early-stage entrepreneur seed investments, and we're very pleased in the last few years how they've really stepped up in terms of their support for the start-up community. I would agree.

Mr. Gerald Keddy: Excellent. Thank you.

Ms. Fralick....

That's a good strong south shore name, Mr. Chairman, so there's no question on how you pronounce it.

On the tobacco taxation you covered all of it. The real issue here was of the general domestic rate of excise duty on cigarettes not having effectively changed since 2002. It didn't meet inflation. I think 23.2% is actually what it had to go up by.

I agree 100% with your assessment that this will be a deterrent on cigarette smoking, on tobacco use, period, and will pay for itself in health care benefits. I don't think there's any question on that. At the same time this really isn't part of the budget but there's been a lot of discussion lately, and I'm sure you've heard it amongst first nations, about selling tobacco on-reserve to non-reserve members and charging tax on that tobacco.

Has your group even looked at that even in a cursory way and given some thought to the fact that people are going to continue to

smoke, unfortunately, in this country? It may help in many ways to eliminate that underground stream and underground pipeline of tobacco. Have you given any thought to that?

Ms. Pamela Fralick: Can you just clarify what specifically you're asking? Is that, if we have looked at trying to deter non-aboriginals from going on-reserve to purchase, or the sales to them?

Mr. Gerald Keddy: Non-aboriginals are not supposed to be able to buy excise tax duty-free tobacco on-reserve. Of course they do. We're well aware of that. There's a huge underground economy in tobacco. The discussion of late has been amongst first nation chiefs in actually selling legitimate tobacco on reserve, and charging tax on that to non-natives. Given the fact that people are going to smoke, have you even looked at that as a way to get rid of the non-compliant underground economy on tobacco?

Ms. Pamela Fralick: I'm not familiar with any work going on in that particular area. If I might with the permission of this committee turn to my global expert Mr. Cunningham and just make sure that I have that right...?

May he just sit for a second and address it? This is the expert globally.

The Chair: Sure.

• (1740)

Mr. Rob Cunningham (Director, Public Issues and Senior Policy Analyst, Canadian Cancer Society): There's been a very good example in the province of Manitoba where first nation governments with agreements with the province have prices equal to that and it includes provincial tobacco tax. The full amount is included. The first nations get the revenue. There's no tax leakage. There's no abuse by non-natives of the first nations credit.

The Chair: You have 30 seconds.

Mr. Gerald Keddy: I have just a quick comment to Mr. Howlett.

You raised a number of points on the nature of the underground economy and the difficulty of catching tax cheats. When it comes to tax non-compliance, a lot of it is extremely sophisticated. People who are sheltering money offshore and who have millions of dollars to shelter find expensive ways to be non-compliant.

It's difficult to find. It's difficult to assess. To a degree, in your comment, it sounded like maybe it was easier than it is.

The Chair: We're going to have to leave—

Mr. Gerald Keddy: I apologize. I know, Mr. Chair.

The Chair: I think "quick" means something different on the south shore.

Voices: Oh, oh!

The Chair: We'll have to come back to that, Mr. Howlett. Unfortunately, Mr. Keddy is out of time.

[Translation]

Mr. Dubourg, the floor is yours for seven minutes.

[English]

Mr. Emmanuel Dubourg: Thank you, Mr. Chair.

I'm going to speak slowly because I'm going to ask my question in French.

[Translation]

I want to begin by thanking the witnesses. Their presentations were very insightful, including that of Ms. Tedds, who is in Victoria.

My first question is for Mr. Hayes.

In Budget 2013, the government announced the phasing out of the labour-sponsored venture capital corporations tax credit. However, that tax credit is very important in Quebec. It is said that over 80% of those regulated businesses are in Quebec. You talked about other provinces and the many challenges investors are facing.

Can you tell us what kind of an impact those measures will have on the economy?

[English]

Mr. Thomas Hayes: We agree. In particular, as you pointed out, in the province of Quebec there are two major funds, Solidarity and Fondation, that have played a very significant role in providing financing across all sectors of the economy, and in particular, I guess to some extent, the technology sector. This could have a pretty dramatic impact in terms of their future investing in the rest of Canada.

There are only about eight funds that are left in this asset class, and already we've seen evidence that some of these funds are having liquidity issues, or will have liquidity issues. This is why it's important, in a transition, to provide rules that negate the negative impacts for shareholders and portfolio companies.

We're quite concerned that the VCAP program, while great in principle, is taking longer to get up and running, as I said earlier, and to actually create these pools of capital for Canadian entrepreneurs. This is why we would ask the government to reconsider its decision.

We accept the decision, but we would prefer to have a longer runway in terms of the phase-out of the tax credit, in order to give us more time to nurture the companies and get to liquidity events, which will negate the impact of this reduction of the tax credit.

Mr. Emmanuel Dubourg: Thank you very much, Mr. Hayes.

[Translation]

My next question is for Mr. Howlett.

In your presentation, you talked about electronic funds transfers and the new measures on whistleblowing. As far as funds transfers go, my understanding was that you were favourable to that measure. However, other stakeholders we heard from earlier indicated that the legislation is not really clear. There are not enough measures, and this adjustment is left entirely in the hands of the Canada Revenue Agency. That could be an issue. The fact that this measure is not clear and that relevant information is lacking has a major impact.

What do you think about that?

• (1745)

[English]

Mr. Dennis Howlett: Particularly with the offshore tax informant program, the provisions for the protection of informants is not clear enough. I know this from personal experience, having talked to several people who had information they wanted to come forward with. As you know, some of the tax cheats using tax havens are connected to criminal organizations, so these people have a very real fear for their lives—I have talked to them—yet they feel they should do the morally correct thing and come forward with this information.

I don't think there is sufficient protection. As a previous witness mentioned, there may be provisions that would apply if it's a criminal case, but in a civil case that is not there. There are some significant improvements that are still needed.

What's also not clear is what the staffing capacity is going to be to implement this program. In the United States they have 40 staff in the IRS Whistleblower Office. We know Canada is a smaller country, so maybe we don't need that many people, but I've heard that government was thinking of only having one or two staff. I don't know if that would be adequate to roll this program out in a good way.

[Translation]

The Chair: You have one minute left.

Mr. Emmanuel Dubourg: I won't be able to add much in one minute.

Mr. Howlett, you probably feel that this measure aims to show that the government is fighting tax evasion. However, in reality, stakeholders do not think this will affect major change. Of course, recovering funds is important. Every taxpayer must pay their fair share, but this is not the type of measure that will help achieve that balance.

[English]

Mr. Dennis Howlett: Yes, I think these are important steps forward, but they aren't adequate to the size of the problem that we're facing. I welcome them, but I'm hoping the government will consider further steps because this is a big challenge.

I agree with Mr. Keddy that it's a difficult problem to crack. I do have some sympathy for the Canada Revenue Agency in trying to deal with this problem. They need some further help to be able to do it.

Mr. Emmanuel Dubourg: Thank you very much.

The Chair: Okay, thank you.

We'll go to Mr. Adler, please.

Mr. Mark Adler: Thank you, Chair.

Thank you to all the witnesses for being here today.

Initially, I wanted to go to you, Mr. Hayes, to talk about LSVCCs. I won't have the time, but I would like to pursue that with you at some point.

I do want to ask Ms. Fralick about consumption taxes on cigarettes. I mean all of us who've studied economics know the Ramsey rule; you apply consumption taxes to goods of inelastic demand in the hope that it will minimize the welfare costs associated with them.

Are we at a point now where it doesn't matter how much added tax we place on cigarettes, people are still going to buy them at the same level as they were before? Have we reached that point yet?

Ms. Pamela Fralick: We don't believe so, thus the recommendation this time around that it was well beyond time to increase the federal taxes. You'll have noticed that several provinces also view that they still have room to put more taxes on. Ontario was talking about that today. The B.C. government increased their tobacco tax a couple of weeks ago, so there is room.

It's not just about revenue grab, I don't think. I know it's been—

Mr. Mark Adler: Is consumption going down, though, as taxes rise?

Ms. Pamela Fralick: Consumption is going down. Depending on the study that you look at, we'll say there are 20% who are smoking in this country, but it's down as low as 16% in some populations. The population we are concerned the most about... Your question, I think, speaks to addiction. Those who are very deeply addicted—we know that addiction to nicotine is a very strong one—will certainly pay a great deal to get the product to which they're addicted. We believe there's still room to move.

For the Canadian Cancer Society, one of the biggest areas of focus is young people. I said in my comments, “no new smokers”. This is why, with young people, the price point is especially important. Those who are addicted, they're adult. They have been smoking for years. We do everything we can to help them stop smoking, if they're going to. Part of that is the pricing issue, but you're right, they will continue to find the money to fuel that addiction. For young people, we don't want them to start.

• (1750)

Mr. Mark Adler: How's that battle going with young people?

Ms. Pamela Fralick: It's been going very well. I don't have the specific numbers. Mr. Cunningham probably does, and could quote the statistics. I believe it's around 16%, 17%, and dropping year over year. The challenge we face is not a budgetary issue, but it is around flavoured tobacco. That is something that should be banned. We can talk about that today or another time, but that is something that is an introductory process for young people. It is a significant concern for us.

E-cigarettes are another issue. We don't have as much evidence, but there's a lot of research going on in that area as well.

Mr. Mark Adler: What's an e-cigarette?

Ms. Pamela Fralick: E-cigarettes are a relatively new delivery mechanism for nicotine in the States. They've not been regulated in Canada to be used with nicotine. It is a cigarette-like device that vaporizes. You inhale; you feel like you're smoking. There are flavours that can be delivered through this mechanism. It's being positioned both as a harm-reduction approach, similar to Nicorette patches and other approaches, but it's also an introduction to cigarettes and a way tobacco can be delivered.

Again, the evidence is less clear on that front. I know it's not a budgetary issue, but certainly the flavoured tobacco is very clear for us, and we urge the government to take a look at that.

Mr. Mark Adler: Yes, okay.

There's still even room, then, you would say, to increase the taxes on cigarettes even more.

Ms. Pamela Fralick: We believe so, yes. The increase that this current budget would place on tobacco, you heard me refer to as an inflationary adjustment. When you look at the costs that have gone up, the cost of tobacco has stayed stagnant federal tax-wise for about 12 years now. I mentioned the discounting issue. In response, the tobacco industry has offered discount brands. The tobacco is basically the same, but the pricing is much lower. The real price of tobacco has done nothing but go down over the last decade to 15 years.

Mr. Mark Adler: Okay, thank you.

How much time do I have?

The Chair: You have about two minutes.

Mr. Mark Adler: Two minutes, okay.

All right, Ms. Tedds, some other time.

Mr. Howlett, you come here as a tax expert. What are your credentials for claiming you're a tax expert? We had before a couple of lawyers who have studied tax law. They're tax lawyers. They're well educated in the field. What expertise do you have?

Mr. Dennis Howlett: I have worked in the past for the Ontario Fair Tax Commission.

Mr. Mark Adler: What educational experience do you have?

Mr. Dennis Howlett: I have a Master's degree—

Mr. Mark Adler: In...?

Mr. Dennis Howlett: —in adult education, so my specialization is more in the area of—

Mr. Mark Adler: So it's not really in taxation at all?

Mr. Dennis Howlett: No, but I do have some background in tax and work around taxes.

Mr. Mark Adler: Okay. I guess you pay your tax. That's what makes you an expert in tax.

Canadians for Tax Fairness, how are they funded?

Mr. Dennis Howlett: We have individual donors and organizational donors.

Mr. Mark Adler: Do you have trade union donors?

Mr. Dennis Howlett: Yes, trade unions, non-governmental organizations, churches, quite a wide range of groups support us.

Mr. Mark Adler: I'm not trying to...I'm just saying, I'm not a tax expert either. My expertise comes from paying taxes, too, so I'm not trying to denigrate anything that you're saying. I just want to be clear here. You kind of give the impression that you're a tax specialist or expert, but you're not really, are you?

Mr. Dennis Howlett: I have learned a lot about taxes over the years. You don't learn just in school. In fact, sometimes experiential learning—

• (1755)

Mr. Mark Adler: So for example, when you talked about the tax gap no one's been able to.... We had an OECD representative right here at this finance committee just recently, who said it's absolutely impossible to calculate, yet you were somehow able to calculate it. How were you—

The Chair: Just a brief response....

Mr. Dennis Howlett: The OECD does actually recommend to their members that a tax gap estimate can be a very useful tool. If you look at the literature from the OECD—

Mr. Mark Adler: But they haven't been able to come up with a number yet, but you have.

Mr. Dennis Howlett: It may be difficult to pinpoint the exact amount, but the point of doing it is not to embarrass the government. It's to help the government identify—

Mr. Mark Adler: I understand that point. I'm not disagreeing with you.

The Chair: Okay—

Mr. Dennis Howlett: —areas where their efforts should be focused. So it is a tool that can be helpful to improve the government's performance and know where to put the resources most effectively—

The Chair: Okay, thank you. We'll end on that agreement, then.

We'll move to Mr. Rankin for seven minutes, please.

Mr. Murray Rankin: Thank you, Mr. Chair.

Thank you to all the witnesses.

I'd like to continue with Mr. Howlett of the Canadians For Tax Fairness. I want to also drill down on some of the work that Mr. Dubourg initially started, particularly on the resourcing issue. I have your brief before us and I understand that the Conservatives have cut the CRA budget by \$250 million, and 2,500 full-time equivalent people are no longer there. I'd like you to comment, if you would, on what your organization has concluded in terms of the resourcing available to deal with the tax haven problem.

Mr. Dennis Howlett: This committee is probably aware that just this week the Auditor General released a report on aggressive tax planning, and found that there are some problems with Canada Revenue Agency's capacity to go after tax cheats. Just this week I met a senior CRA staff person who confirms that there continues to be a serious lack of staff capacity in the international audit division to combat tax haven related tax evasion. Most importantly, he warned that this situation is likely to be compounded by a large number of auditors who will be retiring in the next few years. Unless staffing levels are boosted and good training programs put in place, which was one of the areas of particular concern in the Auditor

General's report, the situation could get much worse than it is now. It's a false economy to try to save money by cutting staff in this area when we will lose much more in uncollected revenue as a result.

Mr. Murray Rankin: In the budget that was tabled in February, they say the measures regarding tax avoidance will allow the government to recuperate \$44 million in 2014-15. I guess you've indicated in your brief that the size of the problem is \$5 billion to \$8 billion, or something in that range, that could be collected. Obviously, there's a great disparity between that figure and the \$44 million the government seems to believe it's going to collect through these measures.

Mr. Dennis Howlett: I do think that the offshore tax informant program is a worthwhile measure, and that's probably the one that is most significant in terms of potential new revenue. But if you look at the U.S. experience, which I think is quite relevant here, with much longer history and much more staff resources available, they collected only \$367 million last year. So 10% of that is certainly less than \$40 million. They found it takes five to seven years before cases can be completed. So the actual \$40 million will not be realized—it's probably optimistic—for another four or five years down the road at least. It is worthwhile, but probably it won't amount to that large a figure.

Mr. Murray Rankin: In your report you point out, or at least Statistics Canada points out, the fact that there's a 10% increase in direct foreign investment abroad and that the increase in tax havens is by \$15 billion, to a total of something like \$170 billion. Do I have those figures correct?

Mr. Dennis Howlett: That's correct.

The point here is that it's a growing problem. Despite some initial efforts by the G-8 and the OECD to begin to address this issue, we're a long way from getting a handle on it.

Mr. Murray Rankin: In your report, you mentioned the OECD just now, and the G-8 tax haven action plan is referred to and is endorsing the OECD's base erosion and profit shifting process to reform international corporate rules. Yet, you comment about Canada's not taking a very active role. Could you speak to that? You are part of the Tax Justice Network, right?

• (1800)

Mr. Dennis Howlett: Yes. I did consult my colleagues in Europe, part of the Tax Justice Network, who are monitoring the OECD process very closely. They reported that Canada is not taking a very active role, which I suppose may be a good thing, at least there are no reports of Canada actively resisting it. But I would urge the government to step up and make a stronger effort to push through significant reforms, especially to the international corporate taxation rules.

Mr. Murray Rankin: What other countries measure the tax gap? You talked about that in your conversation with Mr. Adler.

Mr. Dennis Howlett: Roughly half of the OECD countries do tax gap measures. A couple of years ago, the OECD put out a very good report, assessing the different efforts. The Canadian Parliamentary Budget Office did make use of the best-case efforts, looking at other countries, and have done some work on a tax gap report, but couldn't complete their study because of certain CRA information they would still need.

It wouldn't take much for the government to provide that information. We could have a report that could be very helpful in helping CRA to know where to focus their efforts.

Mr. Murray Rankin: Speaking of lack of information, it was in the Auditor General's report last week that the finance department is failing to provide information on dealing with aggressive tax planning. That was reported by the Auditor General. It's another example of the government not providing information to independent watch dogs.

Mr. Dennis Howlett: There are further legislative changes that I think are warranted, particularly improving the GAAR.

Mr. Murray Rankin: That was the last thing I wanted you to talk about. You talked about the GAAR. You only have one minute. Could you explain what GAAR is and what your proposal is regarding economic substance?

Mr. Dennis Howlett: GAAR is the general anti-avoidance rule and it relates to corporate profit shifting and other tax-evasion schemes. Government's ability to go after corporate profit shifting and aggressive tax-avoidance schemes would be significantly strengthened if the Income Tax Act were amended to require the courts to consider economic substance in determining whether there is an avoidance transaction or whether an avoidance transaction results in misuse or abuse.

Just a tightening up of that regulation would make a big difference in the government's ability to get convictions in tax court against corporations who are profit shifting and tax evading.

The Chair: Thank you.

Thank you, Mr. Rankin.

Mr. Allen, go ahead, please.

Mr. Mike Allen: Thank you very much, Mr. Chair. Thank you to our witnesses for being here.

With respect to the tobacco taxes, I'd like to start with Ms. Fralick and Mr. Cunningham. New Brunswick is \$44.52. What I'd like to understand is what is the key to the west, which has higher taxes? You indicated that they've had more success. What has been their key for decreasing contraband? What do you think are the major things they've done as opposed to the lower-tax jurisdictions, if you will?

Mr. Rob Cunningham: In western Canada, there are no legal factories and no smoke shacks selling untaxed products to non-natives. The governments there just never allowed them to start; whereas in Ontario and Quebec, there is a longer tradition of them occurring so it's harder to then deal with it. But in the west, they never started.

Mr. Mike Allen: Okay.

What is the health care cost of the introduction of one young smoker to smoking?

Mr. Rob Cunningham: What we can say is that it's \$4.4 billion a year in direct health care costs because of smoking. We have to do some calculations to get a very specific answer. But it is enormous.

Mr. Mike Allen: That's \$4.4 billion a year just in health care costs to the Canadian economy.

Mr. Rob Cunningham: That's just in health care costs. If you include other costs, from fires and lost productivity, the number is much higher.

Mr. Mike Allen: Thank you very much.

Mr. Hayes, I'd like to talk to you a little bit about venture capital. You indicated that the venture capital funds have been in place since Mulroney.

Can you talk to me about the trends? Can you comment on the number of deals that have actually been closed over the past couple of decades using these funds? Is that trending up? Is it trending down? Just exactly what has been happening with these deals, up until last year?

• (1805)

Mr. Thomas Hayes: I can speak to the various funds that our organization runs. We've probably closed in excess of 1,000 deals since the funds that we manage were created.

Mr. Mike Allen: Excuse me—that's since when?

Mr. Thomas Hayes: We created our first fund—this is just our organization—in 1992 in British Columbia.

Mr. Mike Allen: I understand. That's good.

Mr. Thomas Hayes: Then we acquired the management of one of the original funds, the working ventures fund, which was in Saskatchewan, Ontario, and out east. They would have done in excess of 1,000 deals as well.

Then we created a fund in 2005 in Atlantic Canada. It's a small fund. We've done 20-odd deals.

In the province of Quebec—my gosh—I couldn't estimate. Thousands of companies would have received support through those funds. Those are quite large. The Solidarity fund in itself is around \$10 million, so you can imagine the scope of their activities.

In their heyday, when these funds were first created, I think folks were focused on the tax credit, which was probably the wrong focus to some extent. Some of these funds weren't managed properly and so on, but they made a significant contribution. When you look at the statistics, over a third of all the venture capital in Canada since 1984 was supplied by the various labour funds that were established across the country and in operation.

That's become less of a factor in more recent years, but the participation by institutions in VC across Canada has dropped significantly as well, so probably, as a percentage, the labour funds were still a pretty important part of the VC ecosystem.

Mr. Mike Allen: Using your company as a metric—just because you're more familiar with the numbers—have you seen that trend, those thousands of deals since 1992, go up or down? You said the percentage was steady, but how are you seeing the trend line?

Mr. Thomas Hayes: They are significantly reduced, given the challenges in fundraising. This measure has sent a pretty negative message to the investment adviser community. We don't sell directly to clients. We work through the brokerage firms, financial planners, and IIROC firms, which are the bank-owned brokerages. We've seen fundraising go down significantly in the last couple of years.

Mr. Mike Allen: Okay. Is it possible to provide a chart to the committee with respect to the number of deals? That would be very helpful to see.

Mr. Thomas Hayes: We have that information. I don't have it with me, but we certainly can.

Mr. Mike Allen: That would be fine if you could provide it.

Mr. Thomas Hayes: There was some very good work done by an economist based in Montreal, Gilles Duruflé, who is probably the most knowledgeable independent individual in the country. He has examined the impact that these funds have made across the country. That submission was made back, I think, in July 2013 and it has all of that information. I'll make sure the committee gets that information. He is very well regarded in the industry, not just in Canada but internationally. I think that work will stand the test of anyone's assessment.

Mr. Mike Allen: Okay. I just want to ask you a couple of questions about ACOA. From the ACOA perspective, does most of that funding come through the business development program loan area for the businesses that you're talking about?

Mr. Thomas Hayes: It does, but in more recent years they have purposely attempted to put more focus on the early-stage side of things, where it is really needed. We think they are doing great work in the provincial offices and are really trying to help address the need at that level.

Mr. Mike Allen: This will be my last question, Mr. Chair.

It's one thing to have this kind of thing, but I see now that a lot of the provinces are coming on. New Brunswick has a pretty generous small-business investor tax credit. How do you see those types of things as providing good possibilities for people to raise capital? I know New Brunswick is actually looking at theirs now and will potentially enhance it.

Mr. Thomas Hayes: Yes, they are.

We've done a lot of work not only with the crown agencies like NBIF, but the investor tax credit has been utilized in all provinces to try to get angels more active in this sector.

They're all important parts of the ecosystem; not any one has the entire solution. You need the family money, you need the angel money, you need the early-stage investors, and you need the series A and the series B investors. So it's a range of solutions to a pretty significant challenge for entrepreneurs.

• (1810)

Mr. Mike Allen: Thank you, Chair.

The Chair: Thank you, Mr. Allen.

We'll go to Mr. Cullen, please.

Mr. Nathan Cullen: Thank you to our guests. I'll endeavour to treat you as guests.

Mr. Hayes, I apologize for missing your earlier presentation.

How would you describe the general trending right now in venture capital markets in Canada, particularly in comparison to the United States? Are we trending up? Are we trending down?

Mr. Thomas Hayes: It's about the same. On a per capita basis we're at about 40% of what is happening in the U.S., and that affects the portfolio companies because they have to compete against U.S.-funded companies.

Mr. Nathan Cullen: Again, I apologize for missing.... You made a comment about the phasing out of the labour-sponsored venture capital. Is this going to improve the situation or—

Mr. Thomas Hayes: Not at all.

Mr. Nathan Cullen: How important is venture capital in stimulating particularly new entrepreneurial, innovative businesses in any market, and particularly in Canada?

Mr. Thomas Hayes: It's critical, particularly in the knowledge-based industries because there are no assets other than the knowledge and the entrepreneurs. None of these deals are bankable, so it's critical.

If you look at Quebec, for example, if you look at the aerospace industry or biotech, a lot of that was funded—

Mr. Nathan Cullen: This is the very lifeblood of the industry, these innovative, knowledge-based....

Mr. Thomas Hayes: Yes, absolutely.

Mr. Nathan Cullen: Here in Canada we've often lamented about productivity and competitiveness, particularly versus that of the United States. The solution coming from the current government consistently seems to be that it's about tax regime. It's simply the effective tax rate that companies are paying, and if we're more competitive there, then we will have a more productive and more competitive and more innovative economy.

Does the aspect of what we've just talked about, the ability of venture capital money to enter the market, also bear some effect on our ability to be effective, innovative, and competitive?

Mr. Thomas Hayes: Well, it goes without saying, that's where—

Mr. Nathan Cullen: I think it needs saying sometimes.

Let me express it more plainly.

I'm confused with a government—my Conservative colleagues can help me out—where jobs, growth...and what is the third one?

Mr. Mike Allen: Long-term prosperity....

Mr. Nathan Cullen: Long-term prosperity, thank you.

I've heard it so many times you would think I would have this. Those are the hallmarks of the government. If it is trademarked, I will pay the trademark later.

With that being the alleged fixation of the government, and venture capital playing such a key role in jobs, growth, and long-term prosperity, I'm confused. Why phase out a program like this?

Mr. Thomas Hayes: Well, we've attempted to explain to the federal government the importance of this program. No program is perfect, and certainly we all agree—those of us who are practitioners—that there are ways of improving the program. But to cancel it, we think was a regressive step.

I also said in my presentation that we're pleased with the introduction of the VCAP program, but it's going to take a significant period of time to get that up and running and—

Mr. Nathan Cullen: Whether it's of scale and effective....

Mr. Thomas Hayes: Exactly, and whether it will achieve the goals that were initially set and the targets that were initially set, it's anyone's guess at this point.

Mr. Nathan Cullen: Call it the F-35 venture capital program and we'll get some money behind this thing.

Ms. Tedds, I will try to include you again. You made some comments just around the effectiveness of various tax credits in helping and aiding the economy and the Canadian taxpayer in general.

There has been some debate around income splitting, but not the growth yet. We didn't see it here. Do you have any particular comments in the research that you've done over the effectiveness of this? If you haven't, you can say that as well, of course.

Prof. Lindsay Tedds: Income splitting predominantly benefits high-income households. Very few benefits accrue to low- and middle-income households. So it depends on what you're trying to achieve with the policy, but the academic research on income splitting has been clear that there are better ways of addressing the inequities in the tax system, which that proposal is trying to address.

Mr. Nathan Cullen: Thank you.

To you, Mr. Howlett, you were talking about the ability to go after tax evasion and tax avoidance. Any government would be interested in this.

Often the claims of what you can get through a tax evasion scheme are overinflated, but you certainly can't get those if you don't have the people going after those who are avoiding or evading taxes. Can you quote back from the Auditor General, again, what particular problems...? I want to understand these.

For a government that makes a claim in the budget—in its attempt to balance the budget—of how much money it's going to be able to recoup from those who have offshore money or avoided taxation, to then go through and cut \$250 million off the very agency that's

meant to go out to do that, I'm trying to connect those two dots and make some sense of what the government is claiming.

• (1815)

Mr. Dennis Howlett: With regard to the Auditor General's report, he identified a number of problems, but the two I would underline are, first, problems with the training of auditors. It's very difficult to go after tax cheats using tax havens, and companies pushing the envelope on profit shifting, and so on. Some of that is allowed, but a lot of companies are going over the line—

Mr. Nathan Cullen: Sure.

Mr. Dennis Howlett: —and exceeding what is really allowed by law.

So the training of auditors is critical because a quarter of the CRA top-level auditors are due to retire in the next five years. They are already seriously understaffed. They were hit with more staff cuts than any other government department, and even though the international audit program was spared the full brunt of the tax cut, they still have reductions from previous years in the staff working in that area. So that situation is going to get worse if we don't address the training needed.

The other thing is Finance Canada's lack of sharing of information on what exactly they are doing on legislative measures to improve the capacity. It really is important that the government give the tools necessary to the CRA auditors to do their jobs. One of the problems is that we still have too many loopholes and holes in our tax law that allow all kinds of ways for tax evaders to shift profits and avoid paying taxes.

Mr. Nathan Cullen: This is the Auditor General who's raising this.

Mr. Dennis Howlett: Those laws continue to need to be tightened up. There were a few small steps in this implementation bill, which I applaud, but there is much more that needs to be done.

Mr. Nathan Cullen: Thank you, Chair. I'll wrap with this.

I think in that holistic approach, if the Auditor General comes in and says these are holes within the auditing and Canada Revenue Agency's system to go after what the government claims it wants to go after, I'm sure all of my Conservative colleagues would take the Auditor General's advice as being qualified and being capable to assess this particular system.

The fact that Finance Canada withheld documents from that same Auditor General in the pursuit of this knowledge should raise alarms for all of my colleagues across the way.

Thank you.

The Chair: Thank you, Mr. Cullen.

I'm going to take the next round, and then Mr. Keddy will have the last round.

I wanted to follow up on your presentation, Professor Tedds. I appreciated your remarks very much, especially with respect to the GST/HST credit moving away from the opt-in method towards the assessed method. As you say, this is an important way to get money into the hands of low-income Canadians.

Are there other credits we should look at in terms of changing the way we do it? So moving towards the assessed method, are there other credits you have looked at that we should do the same thing for?

Prof. Lindsay Tedds: The GST/HST tax credit was an oddity in the way that people qualified for the tax credit. There is no other tax credit out there that required people to say, yes, assess me. Everything else is based off of information that CRA has.

The Chair: Okay. I appreciate that.

Next, I want to move to the mineral exploration tax credit. At the finance committee we hear about this every pre-budget consultation. It won't surprise you. We heard from organizations like the Prospectors and Developers Association of Canada. Obviously they are very supportive of this credit. In fact, they recommend every fall expanding it.

Their arguments—and I want you to respond to their arguments—and what they present to the committee typically, are that the federal government studies that have been done 2000 to 1994 indicate that for every dollar of tax expenditure made, it generates \$2.60 in new exploration spending.

Further to that when the committee was I believe in Whitehorse, the junior mining companies were even stronger in saying that if you remove the tax treatment for the junior mining sector, because it is a very risky endeavour... It's less risky obviously as you move up towards the existing mines, but for actual exploration, if you remove this tax treatment, you will in fact cause serious harm to the amount of exploration going on. The juniors obviously feed into the larger companies in terms of mines.

I want to get the full debate out here so I want to give you an opportunity to respond to the arguments they make before the committee each fall.

● (1820)

Prof. Lindsay Tedds: I think it's important to separate out the basic flow-through share system versus the additional METC, which is what we call the super flow-through share system.

The federal government studies that have been done—and there have now been two—as well as three academic studies, have all focused on the flow-through share regime. This includes the latest study by the Department of Finance, which was in 2013. There has been no focus on whether the METC tax credit has resulted in any increased exploration.

When you look at the activity since the METC has come in, there does not appear to be any evidence that the METC causes any additional investing behaviour, as opposed to simply subsidizing investing behaviour that already occurs under the flow-through share system.

The METC is, effectively, a grant to investors. All it is doing is putting money into investments that are already occurring.

The Chair: When you separate the two, are you in favour of keeping the basic flow-through share but removing the METC? Is that your position?

Prof. Lindsay Tedds: This is tricky, because it might get me into a little bit of hot water.

No, I don't have a lot of favourable things to say about the flow-through share system.

I'm not saying that the mining and exploration industry doesn't need some vehicle in which to help encourage people to invest in them, given the nature of the problem. However, I do believe there are better vehicles to use other than the flow-through share and super flow-through share systems.

The Chair: In your statement, you say, "On the investor side, the [METC] subsidizes high-risk investments" and appears to be "predominantly for tax planning purposes". They wouldn't argue with the first part of your sentence. They would say that it does favour high-risk investments, because that's the nature of that industry, especially at the junior exploration level.

If you look at the METC, it's been in effect since 2000, but it was phased out in 2004-2006, I believe. Then it was brought back. Have you done any studies for the years it was not in effect to see if there was a downturn, in fact, in investment in the junior mining sector?

Prof. Lindsay Tedds: When you look at the data at hand, there was absolutely no decrease. In fact, there were increases over those years the METC was not in play. That's because mining prices were increasing predominantly. That's what drives investing behaviour—the prices.

The Chair: So the price drives it for both the larger and the junior mining companies?

Prof. Lindsay Tedds: Yes.

The Chair: Okay.

Prof. Lindsay Tedds: When it comes to tax planning purposes, we know there is a tax planning element. In fact, 90% of the investments happened at year end, which is an indication it was being done for tax planning purposes. This isn't something that people do over the year.

The Chair: We may have you back in the fall. As this committee gets presented, very strongly, with arguments in favour of it, we may have you back just to have a more fulsome debate at the committee when we do our pre-budget consultations. But I appreciate that very much.

I'm going to go to the final round for Mr. Keddy, please.

Mr. Gerald Keddy: Thank you, Mr. Chairman.

I'll try to ask what I was not able to ask in the 30 seconds of my question. Those of us from Atlantic Canada just take longer to say things, that's all.

● (1825)

The Chair: Well, Mr. Allen was concise.

Mr. Gerald Keddy: But Mr. Allen is in that New Brunswick end now. It's a different thing altogether.

Honestly, Mr. Howlett, offshore tax evasion and non-compliance has an extremely high level of sophistication. There's an underground economy. It's hidden. Wealthy individuals pay a lot of money for people who are very good at hiding tax dollars to hide it. So by the very nature of the beast, it's difficult to deal with. That's what I was trying to say, unsuccessfully, in my 30 seconds.

The offshore tax informant program looks as if it's going to be one tool in our tool basket to actually help combat this, and I realize the results are still to be seen.

But I have to take exception with your statement that we have fewer auditors. The reality is that since 2006, when we formed the government, we have 400 more auditors today than we did have. If you can tell me where that information is coming from, maybe we could work positively on our side to correct that. We do have more physical auditors on the ground than what we had.

Mr. Dennis Howlett: That's not the information I've seen in government answers to order paper questions about this. It may depend on what year you take as the comparison point. But the information I've seen in order paper question answers are that there is a slight—not a huge, but a slight—decrease in the number of auditors working in the international and aggressive tax auditing sections of CRA.

If I might make one additional comment on the offshore tax informant program, I want to commend the government that they set the Canadian case threshold at \$100,000 where an informant might get a reward, which is a lot less than the \$2 million threshold in the United States. So that could help to encourage more informants to come forward. Even though the Canadian rewards are lower, at 5% to 15%, as compared with 15% to 30% in the U.S., that measure is one that will probably make the Canadian program a bit better than the U.S.—

Mr. Gerald Keddy: Thank you for that, but I just want to continue on. I'm going to check the questions on the order sheet because the reality is that we have 400 more auditors than we did.

Maybe it's an interpretation of what exactly the question was, or how it's been answered. So I'll check that.

You made a statement on the money collected in the U.S. from their offshore tax avoidance accounts. I'm not sure if I caught the number. Was it \$3.67 billion?

Mr. Dennis Howlett: No, \$367 million.

Mr. Gerald Keddy: Okay, that's correct.

Again, you know, we've gone through 8,195 international tax cases. We've identified and are collecting an additional \$5.15 billion in taxes from those offshore accounts. So even with a new program on the tax informant, we have a better record compared to population than the U.S. does. That's with the old system. I find it a bit surprising, but I think that it's not a bad thing at all.

One final comment, Mr. Chairman, from Mr. Rankin's discussion on the Auditor General. I think it is worth repeating that the Auditor General's report—and it's there for everyone to read—confirmed that, to quote the Auditor General, the CRA's aggressive tax planning program “has tools to detect, correct, and deter non-compliance”.

Now it doesn't mean we can't do a better job. It doesn't mean we shouldn't try to a better job. I think our record, compared to the U.S., is something to be applauded, and, of course, improved on.

My final comment. Thank you.

The Chair: Okay, thank you very much, Mr. Keddy.

I want to thank all of our witnesses for being here, both here in Ottawa and Victoria. Thank you so much for your contributions to our study of this piece of legislation.

Colleagues, I hope you have a good weekend, and we will see you back here in Ottawa on Monday.

Thank you so much.

The meeting is adjourned.

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