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Chair

Mr. Massimo Pacetti

Standing Committee on Finance

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● (1115)

[*English*]

The Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): I'd like to begin this meeting with Mr. McKay.

Mr. Charlie Penson (Peace River, CPC): I have a point of order, Mr. Chairman.

Mr. Chairman, before we get started with the officials—and I apologize to them—we have another item of business left over from Tuesday that I think we need to deal with first. I hope it can be dealt with fairly quickly. It's the matter of the notice of motion I brought forward regarding the economists we intend to hire. I would ask that we look at it this morning first and get it out of the way and then proceed to Bill C-33, which I think will go along fairly smoothly.

The Chair: I didn't give notice for the motion. I'll just give you an update. The contracts weren't sent. We're waiting to send them—

Mr. Charlie Penson: No, Mr. Chairman, on that subject—

The Chair: No, wait. From that point on...because the motion was that we were going to send a notice—

Mr. Charlie Penson: The motion was deposited here on Tuesday with 48 hours' notice, and therefore it has to come before the committee today.

The Chair: It doesn't have to come forward today.

Mr. Charlie Penson: It does.

The Chair: No, it doesn't. It's a minimum of 48 hours. It's not on the *ordre du jour*.

Mr. Charlie Penson: On Tuesday when we deposited it, we asked that it come on Thursday, 48 hours later.

Mr. Don Bell (North Vancouver, Lib.): I would rather deal with it afterwards. Last time we kept people too long. And that way there'll be an incentive for us to get through what we're dealing with here and get to it.

Mr. Charlie Penson: Mr. Bell, we'd like to have a chance to discuss this. I think the chairman has basically taken care of it, but we'd like to find out, to get it on record.

Mr. Don Bell: Well, it was embarrassing the other day when we kept the group as long as we did. If it's two minutes in camera, that's one thing. We were an hour in camera. That's part of the concern I have.

Mr. Brian Pallister (Portage—Lisgar, CPC): Let's get to this rather than argue procedure.

The Chair: No, the problem is that the clerk doesn't have the motion, but I have it here.

Mr. Charlie Penson: If you could give us an update, Mr. Chair, that would be very helpful.

The Chair: I was just going to give you an update. I met with the clerk this morning. We went through a draft, which either has been sent or is going to be sent today. The draft was based on the corrections that were made based on the guidelines I had from the steering committee yesterday. That's it.

Mr. Monte Solberg (Medicine Hat, CPC): Will it be sent today?

The Chair: I'm hoping it has already been sent. Richard knows. I just met with him this morning at nine o'clock.

Mr. Richard Dupuis (Clerk of the Committee, Standing Committee on Finance): It will be sent today.

Mr. Monte Solberg: Okay, it will be sent today.

Mr. Charlie Penson: Well, Mr. Chair, in that regard, thank you for that information, but we still have the motion on the floor, which gives the authority of the committee for you to have it done by today. I'd like to proceed with the vote to clear this and then move to Bill C-33.

Hon. John McKay (Parliamentary Secretary to the Minister of Finance): I have a point of order, Mr. Chair. May we see what you sent today?

[*Translation*]

The Chair: Do we have a copy of the contracts that were sent out?

● (1120)

[*English*]

Yes, you'll be able to get it. He's working on it, because we just met before the meeting, around 9:30 or 10 o'clock.

Hon. John McKay: Isn't it fundamental that if we're going to vote on a motion, we should at least see the terms and conditions you're offering to them?

The Chair: Based on the conversation we had yesterday, I took it upon myself, because that's what the motion says, that I have to sign a contract. That's what I did. It didn't say I have to go and give it to you guys. I tried to do that yesterday, but we didn't seem to have a consensus. So now you want to see a copy of the contract.

Some hon. members: No.

The Chair: Does anybody want to speak on that?

Hon. John McKay: You'll sign a blank contract.

The Chair: Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): I don't think we need to take much time on this. We had a motion to give you complete authority to get the contracts delivered to the four consultants, have them signed and returned to us, with an understanding that this committee would take responsibility for monitoring the deliverables and making sure we got what we asked for. I think at this point there's no need to hold up the process and see the contracts. You know what we need, you know what we want, and I think we should just proceed and pass the motion, just to give you that complete authority and make sure it's done.

The Chair: Sorry, Mr. McKay, I wasn't going to hold up the process, I was just going to provide you with a copy of the contract that was sent.

Do I have to read the motion?

Mr. Charlie Penson: Well, the motion was filed yesterday and was circulated to the committee members, Mr. Chair.

The Chair: Okay. Do I need to read it, or can we vote on the motion?

Here is it.

[*Translation*]

It is moved that, in relation to the motion adopted by this committee on December 1, 2004, the committee instruct the chairman to sign the contracts for the four specialists in budgetary estimates to conduct quarterly updates of the estimates for the fiscal balance, with the assistance of officials in the Department of Finance by the end of the business day today.

[*English*]

Hon. Maria Minna (Beaches—East York, Lib.): Sorry, Mr. Chair, but did you not already sign, isn't that what the issue is? I thought you said you already signed.

The Chair: No, that's why we have a motion on the question.

(Motion agreed to)

Mr. Charlie Penson: I want to know the results of the motion.

The Chair: Sorry. Eight to three.

Mr. Charlie Penson: Thank you, Mr. Chair.

The Chair: Could we begin?

Back to

[*Translation*]

the orders of the day.

Mr. McKay, thank you for coming to testify today.

[*English*]

I want to also thank the witnesses from the Department of Finance, Mr. Farber and Mr. Ernewein.

Pursuant to the order of reference of Friday, February 4, 2005, we're dealing with Bill C-33, a second act to implement certain provisions of the budget tabled in Parliament on March 23, 2004. We're going to try to go to clause-by-clause if we can.

Mr. McKay.

Hon. John McKay: I have a few remarks, but in keeping with the collegiality of quick passage of almost everything, I will shorten my remarks.

I have officials here. I thought there'd be some cheering for that, at least.

This is, if you will, the budget implementation bill for the 2004-05 budget. These are the tax measures that are attributable to that budget. The bulk of the legislation proposed in this bill implements those tax measures.

As you know, the tax system is pretty important to this nation and to this government. I don't think the point of a fair and efficient competitive tax system in our economy needs to be stated for honourable members of the finance committee. The idea here is to create a stronger and more productive economy and create an expansion and creation of dynamic firms so that they can generate wealth for the nation.

The bill builds upon the $100-billion tax cut that was implemented by the government over the past five years and the plan to take federal personal income taxes down from 27% to 21%. Over the course of that period of time, the government has also removed about one million people from the tax rolls. It lowered corporate rates from 28% to 21%, and we hope we are and are always moving toward a fair and competitive tax regime.

The Minister of Finance pointed out that the government has made key investments in the areas that form our social foundations. This has to do with persons with disabilities. They build upon past actions taken by the government. Specifically, they allow caregivers to claim more of their medical- and disability-related expenses and they allow a deduction for the cost of disability supports for employment or education.

The last measure acts on an early recommendation of the technical advisory committee on tax measures. In the area of charities, it responds to the recommendations of the joint regulatory table, a key component of the voluntary sector initiative. It implements a new compliance regime, there's a more accessible appeals regime, and there's improved transparency and accessible information.

Also, in the small business area, we have moved the $300,000 limit up to a full year earlier than it would have been, so that those who are earning $300,000 or less are entitled to the 12% rate of taxation.

You'll also see that this has a unique provision in it for our armed forces and police personnel serving abroad, and that there will be no taxation of their income while in in-theatre operations where they are at personal risk.

It also implements a first nations taxation agreement. With respect to first nations, the government has expressed its willingness to put into effect taxation arrangements with respect to Indian bands. Bill C-33 proposes amendments to the first nations goods and services tax to facilitate the establishment of taxation arrangements between the Government of Quebec and interested first nations.

It also deals with the air security travellers charge. Following up on the 2003 budget, the government reduced the charge on round-trip domestic air travel to $14 from $24, which is a 40% reduction. Based upon revenue and expenditure projections, the budget further proposes reductions as follows. For air travel within Canada, the charge is reduced from $7 to $6 on one-way travel, and to $12 from $14 on a round trip. On transborder, which essentially includes travel between the U.S. and Canada, the reduction is from $12 to $10, and on international flights it's from $24 to $20.

Those are the initiatives that are contained, along with a few others, in this bill.

I have with me Brian Ernewein and Len Farber from the department, along with several others from the department. I hope we can respond to your questions.

● (1125)

Thank you Mr. Chair. Short and sweet—I hope it was sweet.

The Chair: Questions?

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I have a couple of questions to start with.

With respect to those provisions dealing with the deductibility of fines and penalties, do the amendments to the Income Tax Act cover all such fines, whether they are an individual or a corporate interest?

Hon. John McKay: Certainly with respect to a corporate interest, and for an entity that's operating as a sole proprietorship or a partnership, I believe that's true as well, but I'd better let Mr. Farber be specific on that. It's certainly true with respect to corporate entities.

Ms. Judy Wasylycia-Leis: Could you point us to the appropriate section in the act?

Hon. John McKay: The act or the bill?

Ms. Judy Wasylycia-Leis: Sorry, the bill.

● (1130)

Mr. Brian Ernewein (Director, Tax Legislation Division, Tax Policy Branch, Department of Finance): It's in clause 16, new proposed section 67.6.

The answer to your first question is that it doesn't matter whether it's an individual or a corporation, the same rules will apply in each case.

Ms. Judy Wasylycia-Leis: And it covers all fines and penalties.

Mr. Brian Ernewein: There is an exception for prescribed fines, but the only prescribed fine that's proposed—and I'll confirm this—is the penalty interest, so-called, under the GST, a level of interest charged for late remittances.

Ms. Judy Wasylycia-Leis: Thank you.

My other question is on the provision dealing with tax relief for the Canadian Forces personnel and police deployed to international high-risk operational missions. My concern is that civilian support personnel might not be covered in this provision. My question is, are they, and if not, why not, and what will you do about it?

Hon. John McKay: As far as I know, you'll have to be a member of a police force or the armed forces in order for this provision to apply. Civilians in the theatre of operation, I think, are treated the same.

Is that correct?

Mr. Len Farber (General Director, Tax Policy Branch, Department of Finance): No, they're not treated the same as the personnel. They're there by choice.

Ms. Judy Wasylycia-Leis: On that basis, it wouldn't be covered because they're not obligated to be there.

Hon. John McKay: No. If you went into Afghanistan and were earning a salary, you would still be paying income tax on that salary because you're there by choice.

Ms. Judy Wasylycia-Leis: But wouldn't there be times when it would be part of your job? I mean, you need support personnel, right, to do some of these high-risk operations?

Hon. John McKay: You may need support personnel, but the person, the taxpayer, is there of his or her volition.

Ms. Judy Wasylycia-Leis: Okay, fine.

Mr. Monte Solberg: With respect to the general anti-avoidance provisions, my understanding is that there had been changes made that are retroactive, going back, if I recall correctly, to 1988. Is that correct? And if so, how do you justify going back that far?

I understand there are cases where retroactivity is important, because what you don't want to do is penalize people who obeyed the rules and reward people who really did not live within the spirit of the regulations even if they met the letter of the law. But going back that far does seem to be at least pretty unusual, if in fact that's the case.

Can you enlighten me on that?

Hon. John McKay: Mr. Farber is probably best, or Brian.

Mr. Brian Ernewein: If I may at least open on that point, there is a provision in the bill that proposes to clarify the application of the general anti-avoidance rule in the Income Tax Act with respect to income tax treaties, to provide that an abusive avoidance transaction that involves a tax treaty is subject to the rules under the general anti-avoidance rule in the same way as an abusive transaction that depends only on our domestic tax rules.

The rule is expressed to apply to transactions that have taken place since the inception or introduction of the general anti-avoidance rule, and that rule was introduced with effect from 1998.

Mr. Monte Solberg: Sorry, 1998?

Mr. Brian Ernewein: Excuse me, it was from 1988. I'm not aware of transactions and questions that go back as early as 1988, but they have potential application.

On the question of explaining the application of this rule, it's not clear that it is a retroactive change, in as much as the only court decision on the question so far in a lower court has suggested, *in obiter*, that the general anti-avoidance rule applies to treaties equally in the same way as it does to domestic tax rules. However, this clarifies the point.

If one wanted to test it against the guidelines for retroactive changes, I'd suggest it also satisfied those rules. As is probably well known to most or all members of the committee, the public accounts committee looked several years ago at the question of retroactive tax changes, and the Department of Finance deposited a report or a suggestion of guidelines for this, which I believe the public accounts committee accepted.

I can go through those, but essentially it's a question of whether or not the change in question confirms a long-standing interpretation by the government or the Revenue Agency of the rules, whether the lack of a change would deliver a windfall to taxpayers, and whether the result would be inconsistent in policy terms. In this regard, the government's position since the introduction of the general anti-avoidance rule is that it can have application to abusive avoidance transactions that involve tax treaties. The Department of Finance has expressed that view in many fora—the Canadian Tax Foundation, the International Fiscal Association—as has the Canada Revenue Agency.

Probably most importantly, Revenue Canada, through its actions, has operated on the view that the anti-avoidance rule can apply to abusive treaty transactions. It has provided tax rulings on that basis and has conducted its audit operations on that basis. What this seeks to do is clarify that's the case, take away an issue that may not be an issue at all, and have the debate on whether or not transactions that involve treaties really are abusive, and not whether technically the rule can apply.

● (1135)

Mr. Monte Solberg: Okay, but it's 2005 right now, of course. Why has it taken this long to trigger this? You can see the potential for real problems for people. Sometimes these things are very complicated; there are grey areas. All of a sudden people realize they may have transgressed this, even unwittingly. This is a huge headache and maybe a financial disaster for people.

Hon. John McKay: This is a fairly small set of taxpayers. It's not your entire pool of domestic and international—

Mr. Monte Solberg: I understand that.

Hon. John McKay: This is a very small taxpayer group. The department and the government have operated on the assumption that these rules applied back to 1988. They're essentially trying to clarify for all taxpayers that these rules do apply.

Where they would apply is in very egregious situations, where there's really a scheme to avoid taxes.

Mr. Monte Solberg: I understand. I don't want to belabour this either, but I just want to make sure I understand. Is the government saying they've been basically applying this interpretation since 1988, and circulars have gone out so people knew they were offside if they were engaging in this particular type of activity? Or is this a case where, ten years afterwards, the government realized something was going on that may have been close to the line, or even transgressed it, and then started to interpret the law in that way, and now, five years after that, it's clarifying it?

Mr. Brian Ernewein: I believe it's the former. The government, and specifically the Canada Revenue Agency, has been operating with the view that the general anti-avoidance rule can apply in relation to tax treaties. It's certainly not a question that affects every household. Mr. McKay is right that it's a fairly narrow question. But it is really confirming the expressed view of the agency and indeed of the government. It's something we've cited in places such as the Canada-U.S. treaty technical explanation in 1995.

The Chair: Okay, I've got Monsieur Paquette and Monsieur Pallister.

[*Translation*]

Mr. Pierre Paquette (Joliette, BQ): First, I want to thank you for your presentation.

I would like to pursue the same line of questioning. I noted when reading this year's Bank of Montreal report — I've already seen that in the past — that there's a note showing that taxes in the amount of $500 million were not paid by the Bank because it did not repatriate some of its investments. Under what mechanisms can banks avoid paying $2 or $3 billion — to which they admit — because they did not bring this capital back to Canada? I thought the law applied to all business activities, wherever they take place.

● (1140)

[*English*]

Hon. John McKay: We would be very loath to respond about a specific taxpayer. We just can't.

[*Translation*]

Mr. Pierre Paquette: This is public information since it's in the bank's report. The bank itself says it has saved $500 million in taxes that year because it did not repatriate the capital. There surely are provisions in the act that allow this to happen.

[*English*]

Hon. John McKay: It may be in the report, but no public official would be permitted to comment on that.

[*Translation*]

Mr. Pierre Paquette: Let's talk about banks in general. What are the provisions that allow Canadian banks established in Barbados, for example...

[*English*]

Hon. John McKay: You're trying to do indirectly what we can't do directly.

Mr. Charlie Penson: Mr. Chairman, on a point of order, I'm having trouble following this conversation because there are two people speaking at once.

Hon. John McKay: All right. Mr. Paquette will stop speaking.

[*Translation*]

Mr. Pierre Paquette: I know you will later review the Canada-Barbados tax treaty. Surely these questions will then be asked. We may even invite the banks to come and explain some things to us.

Contrary to what you say, when big business and rich people do not pay their taxes, even if their number is not very high, this is a lot of money that the middle-class has to pay because these people do not fulfill their responsibilities. Our laws are not harsh enough. The general anti-avoidance rule only represents a very small step compared to what our tax system should do to ensure that everyone pays his fair share of taxes.

I want to get back to the issue of the air travellers security charge. The reduction in the charge collected from air travellers is so small it's almost laughable. I reviewed the documents because I want to know what this charge is used for. The revenues mentioned amount to about $400 million a year, according to the table. There are also expenditures. It says here that there were adjustments in 2001 because Transport Canada and the RCMP did not use...

The Chair: What page are you quoting from, Mr. Paquette?

Mr. Pierre Paquette: This is on pages 265 and 266. There are no details about what this charge is used for. People expect it to be used exclusively for air transport security but I doubt very much this is the case. So I wanted to have more details about the use of this charge, which is harmful to air transportation, particularly on domestic flights.

[*English*]

Hon. John McKay: I'll refer to the officials in a second, but the general observation is correct that the revenues have exceeded the expenses to date. But you have to look at the full implementation of the program over the anticipated life of the program. With the revenues falling off, there will be a drawdown of the unanticipated amounts that were in the revenue's securing.

But there are people here who are better able to answer that question than I.

Mr. Geoff Trueman (Chief, Air Travellers Security Charge, Sales Tax Division, Finance, Department of Finance): On the point you make about expenditures, there are two items I would draw to your attention. First, in the budget document we refer to the audit that will be undertaken by the Auditor General of Canada. The first audit report was published in November 2004 and provided additional detail on both revenues and expenditures. Second, CATSA, which is responsible for the lion's share of the expenditures on air travel security, does publish an annual report. It is also available, and provides additional detail.

[*Translation*]

Mr. Pierre Paquette: Could you have these documents sent to the committee?

[*English*]

Mr. Geoff Trueman: The audit report will be published on an annual basis, as will the CATSA annual report.

[*Translation*]

Mr. Pierre Paquette: There is one thing I want to know. The bill constrains the ability of persons, other than cooperative corporations andcredit unions, to deduct patronage dividends. What other types of financial institutions were up to now allowed to make such deductions?

[*English*]

Mr. Brian Ernewein: In fact, although we most often think about patronage dividends being paid only by cooperatives, the Income Tax Act contemplates that patronage dividends could be paid by non-cooperatives as well. What this proposal does is provide that in the case of patronage dividends paid by non-cooperatives, they have to be at arm's length. There can't be transfers between essentially related parties, a cooperative and a parent company, for instance, or rather between a patronage dividend-paying company and its parent, because as I said earlier, the company may not have to be a cooperative in order to pay patronage dividends.

● (1145)

[*Translation*]

Mr. Pierre Paquette: I have a last question. It has to do with the changes to first nations taxation.

In his presentation, the parliamentary secretary said that certain Indian bands would be interested in the changes. Can you tell us who are these interested first nations? Are they the majority? When a bill purporting to give increased autonomy to first nations was introduced some time ago, the majority of first nations rejected it. They thought they didn't have enough revenues to be able to take on responsibilities that are now handled by the federal government. They were concerned they would be incapable of financing the services the federal government would stop providing.

I want to be sure the same provisions are not being introduced through the back door.

[*English*]

Hon. John McKay: This is a facilitating measure rather than anything else, but I think Mr. Marion could probably answer better than I could.

[*Translation*]

Mr. Eric Marion (Officer, Tax Policy Branch, Intergovernmental Tax Policy, Evaluation and Research Division, First Nations Taxation Section, Department of Finance): We're indeed putting forward a legislative framework but the transfer of authority is optional. Each Quebec first nation can apply to have its name added to the schedule. It's fully voluntary. Up to now, one first nation applied for the establishment of a taxation arrangement with the government of Quebec. If other Quebec first nations wish to have similar arrangements, they can get in touch with us and through an order in council, their names would be added to the schedule.

Mr. Pierre Paquette: Out of curiosity, which first nation is it?

Mr. Eric Marion: The information is in schedule 2. It's the Montagnais Essipit band. This information is public. It's on the last page of the bill.

Mr. Pierre Paquette: This is perfect. Thank you.

[*English*]

The Chair: Monsieur Pallister.

Mr. Brian Pallister: Thanks, Mr. Chairman.

Gentlemen, thank you for being here.

Perhaps it was because of the brevity of Mr. McKay's remarks, but I didn't hear any reference to measures to address the issue of the deductibility of assets sucked out of Canada and put into tax havens offshore, where companies pay virtually no tax. Was that something that was just overlooked, something you have addressed?

Hon. John McKay: I don't think that has anything to do with this bill.

Mr. Brian Pallister: Oh, there's nothing in this bill to address the problem of the deductibility of—

Hon. John McKay: The alleged problem.

Mr. Brian Pallister: Let me ask you then, is this a problem?

Hon. John McKay: I don't know, but I guess we're going to find out, according to the motion yesterday.

Mr. Brian Pallister: I'm asking you if the department sees this as a problem.

Hon. John McKay: I think the department, like the government, sees it as an issue, as we all do.

Mr. Brian Pallister: It's an issue of long standing. Would that be fair to say?

Hon. John McKay: As long as there are taxpayers and tax collectors, this will be an issue.

Mr. Brian Pallister: Is this a revenue leakage problem for the country of Canada?

Hon. John McKay: I suppose at one level it's a revenue leakage problem for all nations of the world.

Mr. Brian Pallister: Do other nations of the world uniformly allow deductibility?

Hon. John McKay: Anybody who enters into a tax treaty—

Mr. Brian Pallister: Does the United States allow deductibility?

Hon. John McKay: Absolutely.

Mr. Brian Pallister: They allow their companies who locate offshore to deduct on their assets domestically, write down their profits to the point of a negligible profitability, escape paying tax domestically. You're sure of that?

Hon. John McKay: International corporations, whether they're American corporations, European corporations, or South American corporations, I'm sure seek tax jurisdictions that are most favourable to their—

Mr. Brian Pallister: They may do that, but I'm asking you why Canada allows that to happen. The information you've just put on the record conflicts with other information I've been given.

Hon. John McKay: I suppose you can raise that at the hearing you're sitting in on.

Mr. Brian Pallister: I'm raising it here.

Hon. John McKay: And you've got your answer.

Mr. Brian Pallister: No, I don't. You had the Mintz report, which you alluded to in your comments briefly, I think, which recommended that this deductibility provision be changed. Why have you not chosen to act on it? Don't you see this as a problem?

Hon. John McKay: I don't recollect referring to the Mintz report.

Mr. Brian Pallister: The Mintz report recommended that deductibility be addressed. I'm addressing an issue that the Auditor General has alluded to in five different reports as being a problem. Revenue leakage from this country, in one report I think a few years ago, was hundreds of millions of dollars—going out of the country.

You talked about a fair tax system, and I'm asking you how you're addressing this issue of fairness. There's a perceived lack of fairness, obviously, if companies are able to escape paying tax in Canada while most individuals are not. I'm trying to get at why it isn't addressed in this particular piece of legislation or any other that the government has put forward.

● (1150)

Hon. John McKay: We came here prepared to speak about the budget implementation bill and certainly are prepared to address issues that might arise out of the bill. As to whether there is or isn't tax leakage, this is a matter that this committee apparently is going to investigate.

Mr. Brian Pallister: Has the department done any investigation of this issue? Has any research been done as to the degree to which there's revenue leakage from the country as a consequence of this particular provision?

Hon. John McKay: I couldn't answer that question.

Mr. Len Farber: There's no particular provision that we're looking at in terms of the Auditor General's reports. There have been a host of changes to the foreign affiliate rules, to the foreign investment entity rules, to non-resident trust rules that have been designed over time to shore up the base and to deal with the type of tax leakage you are talking about.

The Mintz report itself dealt with a lot of issues, but the Mintz report was dealing with a host of different recommendations in a revenue-neutral manner. They were not particularly prone to recommending any particular issue to deal with issues of leakage, for example. The issue you're talking about specifically is one where they thought a direct tracing approach to interest deductibility might be a means the government ought to look at in terms of trying to shore up the base with regard to that issue of deductibility.

However, in looking at issues like that, it's clear that one can easily get around those kinds of rules, and that wasn't deemed to be an effective approach to dealing with it.

But is the government concerned with that? Almost every budget going back since that Auditor General's report has had a number of different measures proposed and some implemented to deal with exactly those issues. The agency as well has taken on a lot of issues in terms of enhancing their enforcement mechanisms in trying to deal with matters like that.

Mr. Brian Pallister: In the particular subsection you reference, sir, you talk about tracing and so on. There was also the reference to the issue of deductibility itself, deductibility in the sense of allowing for a moving of tax obligation offshore. This is why I raise this question, of course, because it's been unaddressed for some years now. I'm asking if there's been any study done in the department as to the nature of this problem.

I understand from one of the AG's reports recently that the number of Canadian companies locating in Barbados alone more than doubled, if I'm not mistaken, in the last six years. Is this not something that concerns the department to the degree that they would look into it?

Hon. John McKay: It's not in the bill. We're here to discuss the bill.

Mr. Brian Pallister: That's why I'm asking. I'm asking you about the absence of a provision in a bill that purports to be dealing with fairness—and in your remarks, sir, you did say that you seek the goal of a fair system.

Hon. John McKay: We are, and we do.

Mr. Brian Pallister: Then how hard are you looking for one? I'm asking you a simple question.

Has the department no concerns about the degree to which Canadian companies and corporations are now establishing offshore tax havens and escaping their tax obligation in Canada? Is there no study that your department has done?

Hon. John McKay: You heard Mr. Farber's answer, that this is something of concern.

Mr. Brian Pallister: I'm asking again.

Hon. John McKay: Any time there is “tax leakage”, it is of concern to the government—

Mr. Brian Pallister: I'm asking the question specifically, Mr. McKay. Have studies been done by the department?

Hon. John McKay: —but if the question is whether the issue is addressed in this bill, the answer is no.

Mr. Brian Pallister: I'm asking specifically, have there been studies done by the department in respect of this issue?

The Chair: Do you know if a study has been prepared?

Hon. John McKay: Not that I know about.

The Chair: That's it. The time is up.

Mr. Bell, and then I have Ms. Wasylycia-Leis.

Mr. Bell.

Mr. Don Bell: With reference to personal disabilities, you say you're going to allow caregivers to claim more of the medical and disability expenses. How much? Is this an increase in dollar amount? Is it an increased percentage? Is it an increase in the types of items that will now qualify?

● (1155)

Hon. John McKay: It's an increase in the dollar amount.

Mr. Don Bell: My question is, is it dollars or is it percentage? Or is it also an increase in the description or the identification of allowable expenses?

Mr. Brian Ernewein: The description of this can be found in the briefing materials we've given you, if you happen to have them.

Mr. Don Bell: No, I don't.

Mr. Brian Ernewein: It's on pages 324 through 327.

The effect on disability expenses is essentially to create a new deduction that will remove certain limits on the amount of deductibility. The extent to which that will affect any particular taxpayer depends on their particular circumstances. To try to explain as succinctly as I can, though, the former rule for disability expenses would now be treated as a medical expense tax credit. As a medical expense, there was a threshold below which you couldn't claim this credit. The new rule turns it into a deduction. You take it against your income, and that can leave you with essentially more tax relief than under the previous regime.

Mr. Don Bell: So there's no bottom then. Is that what you're saying?

Mr. Brian Ernewein: All of us are entitled to deduct medical expenses equal to the lesser of 3% of our income or...I think last year's number was around $1,800. It would be the lesser of those amounts. Amounts in excess of that threshold could be deductible. For the disability deduction, our disability supports rule essentially removes that floor so that you can take the deduction down to dollar one.

Mr. Don Bell: The second point is the tax deduction for costs of disability supports. You're now adding that. That wasn't the case before for things like sign language interpreters or talking textbooks. That's new.

Mr. Len Farber: That's right. We've expanded the list of qualifying expenses.

Mr. Don Bell: I don't have the bill in front of me, I'm sorry. I'm just going from page 5 of the presentation that we have.

Mr. Len Farber: It goes on to include note-taking services used by individuals, voice recognition software, tutoring services used by individuals with a learning disability or mental impairment, and cost of textbooks.

Mr. Don Bell: Those are increasingly a result of technological changes, I presume, in which these are becoming more frequent?

Mr. Len Farber: Yes, I think that's right.

Hon. John McKay: The details of which, Don, are in annex 9 of the budget, on page 325.

Mr. Don Bell: Thank you.

Brian, page 325 is the reference, in annex 9.

Thank you. That answered my questions.

The Chair: Ms. Wasylycia-Leis, and then Monsieur Bouchard, for five minutes.

Ms. Judy Wasylycia-Leis: I just have two quick questions. One has to do with the provisions in the bill pertaining to education, and specifically the learning bond and changes to the RESP. In this last round of pre-budget consultations, we heard a lot of concerns from teachers, students, and parents about the effectiveness of these provisions and whether or not there has been an adequate cost-benefit analysis.

All I'm wondering today is whether or not you could give us, this committee, some sort of analysis of the effect of how the RESP program is used. Who's investing? Who's getting what back, and how much? How's it working?

Secondly, with respect to the Canada learning bond, which was up and running as of January 1, 2004, can you give us any breakdown of the uptake of that program?

Hon. John McKay: The uptake is actually fairly good. It's not in the bill, but I think you would look for that analysis with HRSDC. They do the analysis.

Ms. Judy Wasylycia-Leis: They do the analysis? But there are provisions in this bill dealing with changes to the CESG, right? Do you do any cost-benefit analysis in your department?

● (1200)

Hon. John McKay: Generally the finance department doesn't once the money is allocated to the program administered by the relevant department.

Ms. Judy Wasylycia-Leis: My last question for the parliamentary secretary pertains to the long-standing commitment by your government to do a gender impact analysis of all legislation. Can you tell me if you have a gender impact analysis for this bill?

Hon. John McKay: It's interesting putting together a budget. I have an interesting perch, a very privileged perch actually, to watch the putting together of the budget.

Every memorandum that comes up from the department on any subject, it doesn't matter what the subject matter is, references gender analysis. Most of the time there is no gender impact, but in some instances there is gender impact, sometimes with respect to pensions, which tend to be overweighted with a female gender impact, and sometimes with medical outcomes, which tend to be less advantageous to males than females.

The short answer to your question is that the department is very seized, as is the minister, with gender analysis.

Ms. Judy Wasylycia-Leis: That's great. But I'm asking for something very specific, which is the actual document flowing from the required exercise of doing a gender impact.

Hon. John McKay: You mean a chapter in the budget?

Ms. Judy Wasylycia-Leis: I mean an actual document outlining the results of your gender impact analysis of this bill. That was the commitment of your government. It's not a general statement I'm looking for. This is a very specific exercise that has been developed by this government through the Status of Women office, requiring a certain skill or expertise, and there's a specific outcome that I'm looking for.

Hon. John McKay: It's certainly not in this bill; that's the short answer. I'm not aware there was an undertaking on the part of the minister to include, if you will, a chapter on gender analysis or what you're referencing.

So I would have to take your question under advisement, find out what the minister's commitment might be, and report to you.

Ms. Judy Wasylycia-Leis: I would hazard a guess that in fact a gender-impact analysis of the nature recommended by Status Women of Canada has not been done on this bill. It's an issue that has emerged of late as being very important. You'll know that in the pre-budget consultations it was raised. It was part of a minority report of your party, part of the NDP's minority report, and there was a question in the House the other day about it, and I think your minister made a commitment to do such an impact analysis based on gender.

I guess I'll just say that we'll be looking for that kind of analysis in the form of a written document attached to the upcoming budget to be released on February 23.

Hon. John McKay: I can give you absolute assurance that it's done on each briefing memorandum we receive.

The Chair: Thank you.

I have Monsieur Bouchard and Madame Ambrose.

Monsieur Bouchard.

[*Translation*]

Mr. Robert Bouchard (Chicoutimi—Le Fjord): My question pertains to the proposal to extend the loss carry-forward period of businesses to 10 years. I want to know if this period is increased or decreased. What was it before?

[*English*]

Hon. John McKay: I think the short answer was that it was to bring it from 7 to 10 years, and it was to bring some certainty to some conflicting court cases so that all taxpayers now know it's 10.

[*Translation*]

Mr. Robert Bouchard: In the same vein, what is it that allows a business to defer payment of taxes? Is it the depreciation of assets or something else?

[*English*]

Hon. John McKay: Could you clarify that question a bit? I'm not sure I understand the question.

[*Translation*]

Mr. Robert Bouchard: How can a business defer its taxes? Is it because it's depreciating its assets or its profits?

● (1205)

[*English*]

Hon. John McKay: Sorry, you mean that when a business carries forward its losses those apply to future years' income?

[*Translation*]

Mr. Robert Bouchard: Yes.

[*English*]

Hon. John McKay: Yes.

[*Translation*]

Mr. Robert Bouchard: This is what I mean. Normally, a business makes a profit before taxes but based on some provisions of the law, whether it has investments or depreciation, it can defer payment of its tax. I suppose that when a company is sold, it has to pay taxes.

Now, here is my question: what are the elements that allow a company to defer taxes? Is it depreciation of assets or R&D? There must be a number of elements that allow a business to defer taxes it should normally pay now since it's making a profit.

[*English*]

Mr. Len Farber: Mr. Chairman, it can rise from a number of different sources. Certainly with regard to depreciation or capital cost allowance, those are discretionary amounts; they are not mandatory, to be taken in any particular year. Taxpayers will take those to reduce their income to zero, and probably not to take it as a loss.

There are other items like deferred income and prepaid expenses, and a number of timing issues may be taken into account, where corporations might otherwise be taxable, but because they don't have to recognize them in any particular year.... So in that context, we've just extended the losses so you can claim them over a 10-year period. Business cycles, by and large, do not go according to taxation years but according to the particular nature of the business the owner is in. The business may be profitable over a particular cycle and the year-end may happen at that particular point in time, or they may incur losses in that year; therefore, over a period of time it tends to flatten out. This allows those businesses, those taxpayers, to be able to deal with things not just within a business cycle, but also over time.

[*Translation*]

Mr. Robert Bouchard: Can I ask another question?

When a company is sold, is it required to pay all deferred taxes or are theses taxes transferred to the buyer?

[*English*]

Hon. John McKay: When a company winds up and has a tax loss on its books, then that tax loss wouldn't have to be paid by the individual shareholders. I suppose if a company winds up, or is purchased by another company for its tax losses, then we're into an area that Mr. Farber would be very interested in, because maybe a company has nothing but tax losses as it has no other assets.

Mr. Farber probably should answer that one.

Mr. Len Farber: Let me try.

I think what you're referring to are deferred taxes, which basically arise because of timing differences in the context of what is permitted under the Income Tax Act in terms of deductions, like capital cost allowance, and what a company might be claiming for accounting purposes on its books and records. Oftentimes, that differential gives rise to a deferred tax.

Now, does the company owe that deferred tax? Those are not deferred taxes in the context of a liability of a company; as long as the company continues to grow, those deferred taxes continue to go out into the future. Basically, as the company stops investing or as the company stagnates to a certain degree, it's at that point in time where its accounting deductions become more than its tax deductions, and that deferred tax account starts to get drawn down. But it's not a real liability of a company; it just gives rise to an accounting deferral on the balance sheet that recognizes the timing differences between what is permitted under the Income Tax Act and what a company will account for under generally accepted accounting principles.

The Chair: Thank you.

Ms. Ambrose, and then I've got Ms. Minna.

Five minutes.

Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC): Thank you.

Thank you to Mr. Farber and Mr. Ernewein for coming and sharing their expertise with us.

I have a question about the regulatory framework for charities.

Mr. McKay, you mentioned that this bill responds to recommendations from this sector, particularly the joint regulatory table, which is an initiative from the voluntary sector.

The Senate Standing Committee on Banking, Trade and Commerce came out on December 14 with some additional suggestions, calling for additional changes governing charities and charitable contributions. In particular and specifically, these included the elimination of capital gains tax on certain kinds of donations, such as securities and ecologically sensitive land; the elimination of the requirement that charities need to issue receipts for donations of less than $250; to make it easier for contributors, allowing taxpayers to use other evidence, such as cancelled cheques or credit card receipts for any donations where a claim is under $250; allowing taxpayers to carry back unused donations three years or forward indefinitely; and also allowing claims for donations made up to 60 days beyond the end of the calendar year.

I'm wondering if any of those recommendations are present in this bill.

● (1210)

Hon. John McKay: No.

Ms. Rona Ambrose: Will they be considered in the future, or were they considered?

Hon. John McKay: This committee also referenced a number of suggestions to the minister. I can give you absolute assurance that the minister is very aware of the Senate's report.

Mr. Charlie Penson: The question is, will it be in the budget?

Hon. John McKay: I know that's what the question is, but if I told her, I'd have to shoot her.

Hon. Maria Minna: Everything in the report is going to be in the budget.

Ms. Rona Ambrose: I guess I'm glad you're not answering that.

The Chair: Ms. Ambrose, is that okay?

Ms. Rona Ambrose: Fine.

The Chair: Thank you.

Ms. Minna.

Hon. Maria Minna: I would like to go back to two things.

One is the issue of the RESPs. I understand that the department doesn't do the analysis. One of my concerns has always been the extent to which it actually helps the families in need. I know we also have the bond, but in general there are a lot of those families that wouldn't qualify for the bond. They are just in the middle. I've always been concerned about the fact that the RESP tends to help those who have more money. The more money you have, the more money you can put away, but not the ones in the middle situation.

So the finance department doesn't do any of that kind of analysis; that's all at HRSDC where the program is delivered. Am I right?

Hon. John McKay: Yes.

Hon. Maria Minna: I'm wondering then, Mr. Chairman, if we could at some point—I don't know if this committee has jurisdiction—get some reports from HRSDC as to the effectiveness of the tax measures that we implement, such as the RESP and maybe some other tax credits, tax expenditures, as we call them. That's something that I'd like, if I could—

The Chair: That might be a good suggestion.

Hon. Maria Minna: There are a lot of tax expenditures that are part of the budget. I think the tax expenditures are probably equivalent to direct dollars that the government spends in pensions and what have you. I think the last time I looked at tax expenditures, there were worth something like $28 billion. I'm not sure they're ever actually analyzed to see whether in fact they do what they were meant to do. Once they're implemented, they're not really reviewed.

The Chair: To just clear this up, we'll start with the RESP. The CESG has just started. We'll ask for some documentation on the RESP. Is that okay?

Hon. Maria Minna: I'd appreciate that.

The Chair: We'll start with that, and then we'll see about the social programs.

Hon. Maria Minna: Thanks.

My other question has to do with gender-based analysis, which was raised before.

I know it was in our report, and I made sure I also put it in the Liberal minority report as well. I know that Ms. Wasylycia-Leis had it in hers. The reason for that is, while I know there is some work being done on gender-based analysis by some departments, my sense is that it's not really being done by all departments adequately. But the finance department is very fundamental, because it allocates resources on a priority basis.

Will the next budget that's coming up on February 23, I think, put through a gender analysis before the budget is actually put together, or has it been done? If we're serious about it, then obviously the department is doing that work. If not, then we need to be doing it. The budget is coming up, and we need to make sure that work is done. So I'd like to know if that work has been done, because I suspect the budget is pretty well done by now, or at least most of it is done.

● (1215)

Hon. John McKay: I can't respond in specifics as to whether there will be a chapter-and-verse breakdown in the budget on gender-based analysis. I couldn't say even if there was, so I just can't respond on this.

What I can speak to is my own experience with the minister and the department. Every briefing and memorandum we receive does not go before the minister without some reference to gender-based analysis.

Hon. Maria Minna: If I could interject, does that mean, when you say briefing, that every department outside of the Department of Finance—say, HRDC or HRSDC—when it puts forward a budget, has done a gender-based analysis on what it's putting forward, from within the department?

Hon. John McKay: I can't speak to gender-based analysis by other departments. What I can speak to is the fact that the Department of Finance is (a) very seized with this issue and (b) includes it in all of its briefing memoranda to the minister.

Hon. Maria Minna: I have just one final point, a suggestion. Maybe the Department of Finance should make it a matter of procedure that whenever any department puts forward its wish list or proposal, whatever comes forward for the budget process, whether it's HRSDC, Health Canada or what have you, it has a gender-based analysis done on it before it goes to Finance, otherwise it doesn't get dealt with. It's one way of trying to get....

Hon. John McKay: I can't respond specifically to whether a department puts in a gender-based analysis in its memorandum; however, the basis for the finance department's memorandum on gender-based analysis would be presumably not only on its own analysis, but also on information it receives on the specific proposal from the department.

Hon. Maria Minna: I understand that. I guess the reason I'm saying this—and the reason I put it in the Liberal minority report—is my sense that the complexity of the way of the gender-based analysis ought to be done, the way Status of Women has in fact described it and the way that Canada shared at the international fora...it is not necessarily how it's being done just yet, at least not by all departments. All I'm suggesting is that, for this next budget, I hope some of it at least has been done.

Hon. John McKay: Yes. I can't speak to other departments.

The Chair: Okay. I'm going to try to get to the clause-by-clause consideration of Bill C-33, if the members agree.

We're ready to go. We'll do it in batches, starting with clauses 2 to 65.

(Clauses 2 to 65 inclusive agreed to)

The Chair: Shall annex 1 carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill carry?

Some hon. members: Agreed on division.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: Thanks. You're making me work.

Thank you. This meeting is adjourned.

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