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## Standing Committee on Finance

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**Thursday, May 17, 2007**

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**Chair**

**Mr. Brian Pallister**

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Thursday, May 17, 2007

•(1105)

[English]

**The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)):** Good morning, committee members. Welcome back.

Hello to our witnesses today. Good morning. It's nice to see you again. Thank you for being here.

We will continue with our briefings on tax havens and tax avoidance with

[Translation]

the Office of the Auditor General of Canada. Welcome.

[English]

I understand you have some introductory comments. We welcome them. Please proceed.

**Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada):** Thank you, Mr. Chair.

We thank you for this opportunity to speak with the committee about our work related to tax havens and international tax avoidance.

I'm accompanied today by John Rossetti, the assistant auditor general responsible for audits of the Canada Revenue Agency; Vicky Plant, principal; and Brenda Siegel, director, both responsible for performance audits of the Canada Revenue Agency.

I would like to begin by briefly outlining some points from our recent audits that are relevant to the issues you are studying. This work has helped us identify a number of factors that contribute to the success of the Canada Revenue Agency in identifying and addressing non-compliance and tax avoidance.

These factors include effective risk assessment techniques; robust information sources to facilitate risk assessment and the targeting of audit effort; experienced and well-trained auditors; qualified specialists to address complex areas like transfer pricing; information sharing with other national tax administrators; and a legislative environment that facilitates the administration of complex tax legislation and responds in a timely way to identified cases of abuse and unintended consequences.

[Translation]

In February 2007, we tabled a status report that followed up on our 2001 and 2002 audits of non-resident taxation and taxation of international transactions of Canadian residents. Overall, we found the agency's progress in addressing our recommendations to be satisfactory.

We found that the agency had undertaken some good initiatives in developing risk assessment techniques and tools for planning audits of international tax issues. However, we also recommended that the agency seek access to broader information sources about taxpayer activities where it can demonstrate that this would assist it in identifying emerging risks and improve its compliance efforts.

We also found that the agency had not developed any new initiatives to deal with the low-level of international tax audit expertise which continues in some of the tax services offices with the highest risk files. A lack of expertise could result in an inconsistent approach to and coverage of international audits across the country, as well as in a loss of tax.

[English]

It is important to mention that the agency is not solely responsible for maintaining international tax compliance in Canada. For example, the tax litigation services at Justice Canada are responsible for litigating tax cases, including abusive tax avoidance schemes. Finance Canada is responsible for initiating changes to the tax legislation and negotiating Canada's tax treaties that protect Canada's right to tax international transactions. All three organizations must work together if the tax base is to be protected.

We have reported on various tax plans that have come to our attention over the years. For example, in 2007 we reported on progress made by the agency in reassessing 72 trusts with capital gains of over \$600 million. These trusts had been created to avoid Canadian tax by using the treaty with Barbados. They came to our attention in 2001, along with several other schemes developed to exploit the Canada-Barbados treaty.

A number of times in the past we expressed concerns about certain tax arrangements for foreign affiliates. We observed transactions where foreign-owned Canadian corporations incurred debt in Canada to finance investments in third countries. We also observed a transaction where a foreign affiliate of a foreign-owned Canadian corporation was used to move \$500 million in capital gains from Canada to Barbados tax free.

It is important to note that my office did not call for the broad elimination of interest deductibility. Rather, we identified the issue as a potential threat to the tax base, and we recommended in 2002 that Finance Canada obtain and analyze current information to reassess the tax revenue impact and the rationale for allowing foreign-owned Canadian corporations to deduct interest on borrowed funds related directly or indirectly to investment in foreign affiliates and for allowing tax-privileged entities in treaty countries to bring income into Canada tax free.

[*Translation*]

The concerns we raised remain relevant today and clearly are of interest to the committee. We think the announcement by the Minister of Finance to create an advisory panel of tax experts to undertake further study and consultations is a positive step that addresses our long-standing recommendations. We hope that this will result in a clear determination of what legislative amendments may be needed to protect the integrity of Canada's tax base.

That concludes my opening statement, Mr. Chairman. We would be pleased to answer the committee's questions. Thank you.

[*English*]

**The Chair:** Thank you very much for your presentation.

We'll begin with questions from Mr. Pacetti.

Seven minutes, please.

**Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chairman.

Thank you, Ms. Fraser, for appearing. It's always a good occasion when you come here. It's always about good things, and we want to continue on that path.

We're having a little trouble with the committee. From what we're hearing from witnesses, the issue is very complex in terms of whether we should have agreements with countries that are supposedly tax havens and whether it's good for Canada in terms of investment, maintaining capital here, and repatriating some of the capital that sometimes goes overseas and is coming back here.

Do you have an opinion on that?

• (1110)

**Ms. Sheila Fraser:** Much of that is a policy issue and would have to deal obviously with tax legislation.

What we have been concerned about is the protection of the tax base in Canada, and Revenue Canada's work to ensure that this is maintained, that they have a proper risk assessment, that they undertake the necessary activities to identify where abuse may be occurring, and that they have the proper resources to do that. That's largely where our work has been focused recently.

In the past, we noted a number of areas where plans or schemes were being developed that would seem to go against the objectives of some of these treaties and agreements and would have the effect of reducing or undermining the Canadian tax base.

What we were recommending, and have been recommending for many years, is that there should be a very good study done of this. It needs to be quite a broad study because the issues are so interrelated,

interest deductibility and tax havens, and all the rest, and it needs to clearly identify what are the major risks and how should they be addressed, likely through legislation.

**Mr. Massimo Pacetti:** The purpose of these meetings is to study and look at the different options we might have in terms of recommending to the finance minister or the department. That's why I'm asking your opinion. If we didn't have a treaty with a country like Barbados, would the money go somewhere else, and then we'd lose all the money being repatriated back? At this point, it looks like if a Canadian multinational set up to have some of its revenue going through Barbados and eventually coming back to Canada, it is coming back to Canada. That's one argument.

Do we maintain these relationships?

**Ms. Sheila Fraser:** I think the obvious answer to that is that taxpayers, be they corporate or individuals, are going to try to find ways to reduce tax. If it's not Barbados, it could be somewhere else, quite honestly.

I think what's important is that the government has to assess what schemes are being put in place. We noted in the last audit we did that they have now gone after a number of trusts—

**Mr. Massimo Pacetti:** Sorry to interrupt you, but we're limited for time.

We seem to have trouble really understanding what these schemes are. We had lawyers here, we had accountants, and they say it's normal procedure. We had CRA here, and they're telling us that unless we see the whole corporate structure, it's very hard to audit... unless we can actually have cooperation from the company being audited and we're able to see the whole corporate structure.

Where do we start? The lawyers are not willing to tell us what all their schemes are about. The accountants don't want to tell us either. I guess that's where they make their money. The CRA is having a hard time auditing the whole corporate structure unless there are tax treaties with the countries in which these multinationals have corporations.

Where do we start? How do we look at that whole risk analysis?

**Ms. Sheila Fraser:** I guess from the CRA point of view, we've talked about two things. We've talked about their ability to get the information, and that they have to have the agreements in place to be able to access that information. The second issue that I think is a very important issue for CRA is that they need to have the expertise; they need to have the people who are going to be able to understand what these transactions are. We noted in our most recent audit that they were having great difficulty, especially in the greater Toronto area, getting that expertise in their offices. So if you don't have the expertise, they can't understand what the transactions are or even begin to imagine what the transactions could be.

**Mr. Massimo Pacetti:** On the same train of thought, the other question I have for you is this. In your experience, are there legitimate business reasons to have multinationals in countries that are considered tax havens? I understand the part about income tax—companies don't want to pay income tax, just as individuals don't want to pay income tax—but is there another reason other than that? Is there a business reason?

•(1115)

**Ms. Sheila Fraser:** There could potentially be a business reason, but when you look at the investment, we had some numbers, and I think it went from \$600 million to close to \$3 billion in Barbados within five to ten years. I would be surprised if that was all for investment in Barbados.

**Mr. Massimo Pacetti:** On another subject, the tax treaty and the agreement we have with Barbados—and I think the Bloc is going to speak on this. I'd like to talk more about the numbers whereby a company from Barbados will be able to clean up its retained earnings or pay a low tax and have all this tax-free distribution. They repatriate it to Canada, and then the Canadian multinationals pay dividends to Canadian taxpayers, so Canadian taxpayers will then get revenue in the form of dividends, but they will also get a dividend tax credit that is supposed to be based on the corporate tax the multinational would have paid.

The Finance officials don't seem to have any figures as to how much that's costing Canadian taxpayers. Would that calculation be anywhere, from your understanding, whether it be from CRA or from the Department of Finance?

**Ms. Sheila Fraser:** I don't think information on the dividends Canadians would receive...there might be some information on the foreign investment, because a declaration has to be made to Revenue Canada and there's a database, and we use that database to get some information, but to have the amount that would flow through to Canadian individuals in the form of dividends, I don't think they would be able to give you that.

**Mr. Massimo Pacetti:** You wouldn't....

[Translation]

**The Chair:** Mr. Crête, you have seven minutes.

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Thank you, Mr. Chairman.

Thank you, madam, for your presence here today.

When we undertook this study, a Bloc initiative, we found no progress had been made with respect to the accessibility of information. On point 10 of your statement, referring to recommendation 11.114 which you made in 2002, you said the following:

...that Finance Canada obtain and analyze current information to reassess the tax revenue impact and the rationale for allowing:

And you refer to tax treaties signed between Canada and other countries. I am thinking more specifically of the tax treaty between Canada and Barbados.

Have you received a response from the minister on this point since 2002? This committee has been unable to obtain information which might have provided you with a response to your request.

**Ms. Sheila Fraser:** No, we have not received a response.

**Mr. Paul Crête:** Is that one of your concerns when it comes to the strength of the tax base? We have noted the increasing significance of globalization when it comes to international tax issues. Has the time come for an investigation into the international tax issues that affect Canada?

**Ms. Sheila Fraser:** Indeed, if we want to protect the tax base, it is important to have a good understanding of the threats and transactions occurring. We shouldn't be doing this on a case-by-case basis, but rather we should have a global outlook, because things are so interconnected.

I'd like to remind the committee that in 1997 a very significant report, the Mintz report, issued recommendations which were very seriously considered by everyone. As far as we know, there has been no follow-up to it. We believe that it would be good to have a study carried out, but we cannot forget about the one that was already done. Perhaps it could be updated and we could include the most recent events, but a comprehensive study was already done in the past.

**Mr. Paul Crête:** The Minister of Finance has announced the striking of a committee for that five-year period. My reading of the committee transcripts did not give the impression that a comprehensive overview would be carried out. The minister stated that he hoped the committee would identify the legislative amendments which could be required to protect the integrity of Canada's tax base.

You would like this committee to have the mandate to undertake a study of international tax issues in general. Is that correct?

**Ms. Sheila Fraser:** We are not aware of exactly what the committee's mandate would be or of the scope of the work it will be carrying out, but we believe that if a study is to be carried out, it may as well be as wide-ranging as possible.

•(1120)

**Mr. Paul Crête:** Could you give us a few examples of what you are concerned about? You've already given some, but I would like you to expand a bit.

**Ms. Sheila Fraser:** Yes, or I could defer to my colleague. We noted, during the most recent audit, in 2007, that the Canada Revenue Agency had identified 72 trusts that had managed to avoid taxation on \$600 million worth of capital gains in Canada. There were other transactions prior to that. I will call on Ms. Plant to give you more details.

**Madam Vicki Plant (Principal Director, Office of the Auditor General of Canada):** I will find you an example.

**Mr. Paul Crête:** In the meantime, could you tell me whether any of these cases were related to tax treaties, Ms. Fraser?

**Ms. Sheila Fraser:** Yes, I believe there were cases where investment revenues were transferred to Barbados.

**Mr. Paul Crête:** You're referring to the \$500 million indicated in point 9?

**Ms. Sheila Fraser:** Exactly.

That case involved a foreign corporation which transferred \$500 million in capital gains from Canada to Barbados. I think it was an asset transfer.

**Madam Vicki Plant:** I think it was a share transfer. Because of the transfer, the capital gains were not taxed in Canada.

**Mr. Paul Crête:** So, enough red flags were popping up to justify the investigation in question.

**Ms. Sheila Fraser:** I think so, yes.

**Mr. Paul Crête:** Do you intend to reassess this issue shortly or would you prefer to wait for the department's results or for the findings of a more broad-ranging committee who would have the mandate to do this work?

**Ms. Sheila Fraser:** We just issued our report on the follow-up, in February 2007. We essentially made the same recommendations. We will see what comes of the study announced by the Minister of Finance, and we will look at other developments. Either way, we do not intend to revisit this matter any time soon.

**Mr. Paul Crête:** Do you share my opinion in that between 2002 and 2007, given globalization, free trade agreements and the WTO, this taxation issue has become increasingly important?

**Ms. Sheila Fraser:** Absolutely.

We are talking about international tax matters, not only about tax havens and transactions which undermine Canada's tax base. Issues such as transfer pricing are becoming increasingly more complex. Canada must carefully assess the risks and threats involved. The country must get up to speed by retaining people who have appropriate experience in this area. It must also be able to identify these situations in order to take the necessary steps to deal with matters.

**Mr. Paul Crête:** Can it be said that our tax system is lagging behind when we look at global economic activity?

**Ms. Sheila Fraser:** I don't think we can say that, but it is possible that our tax rules may be slightly behind global practices. Indeed, people are looking for ways to reduce their taxes. It takes a certain amount of time to implement legislative changes which means that there may always be a little bit of a delay.

**Mr. Paul Crête:** Have you had any—

**The Chair:** Thank you very much, sir.

[*English*]

We'll continue with Mr. Del Mastro now.

Mr. Del Mastro, for seven minutes.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Mr. Chair, and thank you all for attending.

Ms. Fraser, we've heard a lot of these remarks. We've heard a lot of outcry, particularly from Bay Street and from the chief opposition party, that there are legitimate reasons for allowing tax avoidance and that we don't want to be the only boy scout out there trying to make sure people are paying their fair share of taxes, or aren't skirting the corporate tax regime we've put in place.

In your opinion, just broadly, if all nations followed that pattern, if all OECD nations said, well, we don't want to be the only boy scout who tries to make sure everyone pays their fair share of taxes, wouldn't that ultimately lead to a downloading of the tax burden onto individuals in, basically, all countries?

• (1125)

**Ms. Sheila Fraser:** I'm really not quite sure how to respond to that. To me it seems so hypothetical that the countries would ever actually agree to something like that. I guess at the end of the day, potentially it would end up being—

**Mr. Dean Del Mastro:** But if countries don't have the courage, for fear of corporations pulling out or of fire sales of multinationals in their home countries, to stand up at some point—I do want to talk about double-dipping, and I will get to that—and say specifically that we have to make sure we maintain the integrity of our tax base, then ultimately the tax burden has to shift somewhere. We know there are services that taxpayers rely on.

**Ms. Sheila Fraser:** Yes, absolutely. Taxes have to be generated from somewhere. There are, obviously, different taxes, but I think it's a basic principle of fairness and integrity in the tax system that everyone should pay their share.

**Mr. Dean Del Mastro:** Thank you.

In your report in 2002 you talked about double-dipping strategies. I want to quote you for a second:

Double-dip financing structures encourage foreign-based multinationals to shift debt into Canada from a country with lower tax rates. However, to get the two interest deductions—one in Canada and one in a foreign jurisdiction—the investment and related jobs must be located outside Canada.

I have two questions related to the quote. First, can you provide a practical example of how that would work? And second, do you believe that's still the case five years after the report? Is it still widespread?

**Ms. Sheila Fraser:** We have not done any update of that. I believe that was actually from a study done around that time that raised this as an issue.

I'm not aware of any studies that would have been done, but I think we can presume, since there have been no legislative changes, that the situation is still occurring today.

**Mr. Dean Del Mastro:** Okay. And I was encouraged to hear that you thought the approach taken by the minister, with regard to setting up a panel for consultations, was a positive step.

Lastly, I want to talk about the issue of tax fairness and lower taxes in general. One thing I have worked to establish with all witnesses, and one thing that has rung true, is the idea that as we lower tax rates, there is less incentive to try to circumvent them. It takes a lot of work, and certainly some of the schemes we've heard about that...or certainly there have been rumours. Companies invest a lot of money in tax planning, in coming up with means of skirting taxation. But if we reduce taxes, there is less incentive to try to come up with these schemes.

Would you agree with that?

**Ms. Sheila Fraser:** That's really a policy issue. But when we're talking of transactions of \$500 million and \$600 million, 1% is a lot of money. These are very large transactions being talked about here, and I think there will always be an incentive to try to save taxes on those kinds of transactions.

**Mr. Dean Del Mastro:** One thing that strikes me, and that you noted in your 2002 report, is that Barbados has a corporate tax rate of 40%, but on international business the rate is only 1% to 2.5%. They have in effect two tax books. They're attracting investment into Barbados by basically inducing corporations to set up there that really would have no interest to set up there at all without this low tax rate. We heard the other day that they are listed as a cooperative tax haven by the WTO; they're not actually listed as not being a tax haven.

We've heard how these types of set-ups make businesses more competitive. Ultimately every business in Peterborough, I can guarantee you, would be more competitive if they didn't have to pay taxes. These aren't really positive things for Canada in that if they didn't exist at all, and no nation used them, everyone would have a level playing field and that would be great. They're only positive for Canada because other nations are using them.

Can you make a recommendation as to how we might work, moving forward, with other OECD partners to make sure that tax fairness becomes a little bit more of an issue broadly?

**Ms. Sheila Fraser:** I'll let Mr. Rossetti respond to that.

**Mr. Dean Del Mastro:** Thank you.

**Mr. John Rossetti (Assistant Auditor General, Office of the Auditor General of Canada):** Mr. Chairman, in response to the member's question, I might just mention that the OECD actually is working on this problem. There is a document, the Seoul Declaration, signed by all the OECD member countries last fall, that identifies international tax compliance as a major concern of all these countries. They signed this declaration with a commitment to undertake certain actions, primarily focused on enforcing each country's own tax administration rules so that you don't have this situation where one country is being played off against another.

So there is this kind of international effort. There's an international recognition of the problem, an international effort to work to improve information exchange, the training of auditors, and the cooperation of countries with each other. There is this positive action that's taking place, at least among the 30 OECD member countries.

• (1130)

**Mr. Dean Del Mastro:** So Canada is not trying to be a boy scout.

**Mr. John Rossetti:** I don't think so, no.

**Mr. Dean Del Mastro:** Thank you.

**The Chair:** Thank you, Mr. Del Mastro.

We continue with Madam Wasylycia-Leis, for seven minutes.

**Ms. Judy Wasylycia-Leis (Winnipeg North, NDP):** Thank you, Mr. Chairperson.

Thank you, to you, Madam Fraser, and to all your staff for being here on a long-standing issue that as far as I can tell goes back at least 20 years.

In your 1992 report you referenced the fact that the Department of Finance had committed in 1987 to review this whole area of tax rules on interest deductibility. Here we are in 2007, 20 years later, wondering what we've ended up with.

As I read your 1992 report and your 2002 report, my understanding is that in fact you were concerned about the general issue of interest deductibility when it came to foreign affiliates. It wasn't strictly a matter of double-dipping, although that was part of the concern.

You said in your 2002 report that your concerns were in 1992, and still were, that:

When a Canadian corporation carries on business outside Canada to a foreign affiliate, the interest expense charged on the money borrowed to invest in the operations of the foreign affiliate can be deducted in Canada [...].

That was your concern then. Is that true? Was that your concern then, and is it still your concern?

**Ms. Sheila Fraser:** The major concern we've had over the years is foreign-owned Canadian corporations that then invest in a foreign affiliate. The studies have indicated that there has been in fact debt that has been moved into Canada because of that, yet the jobs and the salaries are abroad. It's really the issue of debt being transferred into Canada, which then reduces Canadian taxable income in Canadian taxes.

**Ms. Judy Wasylycia-Leis:** Was it your understanding that Budget 2007 attempted to deal with that issue, that it made a commitment to deal with that broad issue?

**Ms. Sheila Fraser:** My understanding is that what was announced in Budget 2007 was much broader than that. It was not simply foreign-owned Canadian corporations, but generally interest deductibility, so it was much broader.

This is an issue that has been around for a very long time. There has been draft legislation introduced numerous times. We have consistently recommended throughout that there really needs to be a good analysis and study done and a decision taken on this. There is a lot of confusion and a lot of uncertainty, too, about what these rules are, and there needs to be certainty in legislation about this.

**Ms. Judy Wasylycia-Leis:** I would like to be clear, and maybe I'm just not grasping the words. Are you concerned about the fact that a Canadian company that has invested in a foreign affiliate abroad borrows money in Canada, is able to deduct the interest for that company, but that affiliate does not pay any income tax in Canada?

**Ms. Sheila Fraser:** It was raised as an issue, but our main concern was with foreign-owned Canadian companies. What they would do in their corporate structure was move debt into Canada. There were very few benefits to Canada by doing that. One can argue there is a difference between a Canadian-owned corporation that invests abroad...and then ultimately there can be some benefits back to Canadian shareholders.

I think we had examples in some of our audits. Most of the examples we had were U.S. corporations, but U.S. corporations that have a Canadian subsidiary. If that Canadian subsidiary has debt, perhaps even to the parent company, and then invests abroad, and the interest is deducted in Canada, well, the benefits are not ultimately going to come back to Canada.

•(1135)

**Ms. Judy Wasylycia-Leis:** A similar situation occurs, though, if you have a Canadian company that has a foreign affiliate and uses the Canadian tax system to deduct interest on loans, but doesn't pay any tax on that foreign affiliate. In fact, Canada, again, subsidizes operations abroad that may help foreign workers abroad and economies abroad, but it does nothing to help Canada.

**Ms. Sheila Fraser:** That is true, except that one might argue that ultimately the Canadian shareholders of that company could benefit if there is expansion of that corporation internationally. There could be potentially some benefit there, at least to a Canadian shareholder of that corporation, whereas if it's foreign owned, there is none.

**Ms. Judy Wasylycia-Leis:** With respect to your specific concern about the foreign-owned company, do you feel that the Minister of Finance's announcement this Monday addressed that issue?

**Ms. Sheila Fraser:** I'm sorry. I'm not aware of all of that.

**Ms. Judy Wasylycia-Leis:** On Monday, the minister announced that this was the application of the budget commitment to deal with interest deductibility. Through his measure, establishing the short-term panel, and legislation that will come in five years, he will fix the problem that you presumably identified.

**Ms. Sheila Fraser:** What I'm being told, and I'll ask Ms. Plant to be more explicit, is that what the minister announced deals only with double-dips, double deduction of the same interest expense. What we're referring to is potentially a different issue.

Perhaps, Vicki, you want to—

**Ms. Judy Wasylycia-Leis:** There's a part of this whole issue, which has been ongoing for many years, that hasn't been dealt with. We need to get to the bottom of this and try to resolve it.

He announced a major anti-tax haven initiative on Monday, suggesting that the concerns, raised by you, the opposition, and for many years by all kinds of organizations, are being dealt with in this initiative. Do you believe that this announcement, this anti-tax haven initiative, addresses your concerns?

**Ms. Sheila Fraser:** I'll ask Ms. Plant to—

**The Chair:** Unfortunately, you have time for only a very brief answer.

**Madam Vicki Plant:** My understanding of the changes to the rules on Monday is that a double-dip would be disallowed. So where there's an interest deduction claimed in Canada and in another jurisdiction, the Canadian deduction will be disallowed.

The other part of the initiative was to convene this committee of experts to do further research.

**The Chair:** Thank you very much.

On behalf of the committee, I want to note the presence of a delegation of Pakistani parliamentary participants in our audience today. We welcome them and thank them for their interest in being here.

**Some hon. members:** Hear, hear!

**The Chair:** We continue now with Monsieur Thibault.

Monsieur Thibault, *pour cinq minutes*.

**Hon. Robert Thibault (West Nova, Lib.):** *Merci, monsieur le président*, and I hope our friends from Pakistan will find something to invest in while they're visiting Canada.

**Some hon. members:** Oh, oh!

**Hon. Robert Thibault:** Madam Fraser, thanks once again for bringing clarification to the committee.

If I understand your notes properly, you're suggesting that what you raised as a concern wasn't a broad interest deductibility, as was announced in the budget, but the abuses engendered by the use of low-tax havens for tax evasion, rather than international trade advantage.

**Ms. Sheila Fraser:** Essentially, yes. What we are saying is that in order to protect the tax base, government, Finance, and the Canada Revenue Agency have to be aware of the schemes that are being put in place and where abuse can occur. They need to track this quite rigorously, and the review in 1997 was very good because it went through a lot of that.

It's probably time to update all of that to see what legislative measures are required in order to address those issues.

**Hon. Robert Thibault:** In your 2002 review, I believe you made some recommendations. In 2007, you say you're satisfied with the progress of CRA. When you refer to the progress, I presume you're talking about the policing side of the international activities rather than regulatory change?

•(1140)

**Ms. Sheila Fraser:** Absolutely, because CRA is largely responsible for the compliance activities. We also noted that they were doing better risk assessments and had better auditing procedures in place. There is still a large issue with the expertise they have in some of their offices.

**Hon. Robert Thibault:** When they came for estimates at committee some time ago, they pointed out that problem. I guess the international tax experts are a very valuable commodity. As soon as CRA trains them, they can earn a better income somewhere else. So it continues to be a problem.

We talk a lot about the Bahamas, because it seems to be the hot spot right now. But for international competitiveness, a lot of Canadian capital flows through the Bahamas as a conduit for investments in other markets. That becomes a competitive issue and can have some positive aspects. Our companies have to grow.

So we have to be careful, even when we talk about double-dipping or towering, that we take care of the abuses but don't eliminate the competitive advantage that our Canadian corporations...because they have to compete against other people using the same vehicles.

But you raise another element that has been suggested by a few people at this committee, which is a clear abuse and poses a risk to our competitive ability and our economy generally, and that is debt dumping in Canada. Do you have an estimate of how much this is happening? Have you gone that far in your analysis?

**Ms. Sheila Fraser:** No. We had some information, but it would be quite dated at this point. I think if there were a study to be done, one would expect that they would do the analysis and have an estimate of what is the current situation, without question.

**Hon. Robert Thibault:** When the minister retracted from the whole interest deductibility issue and brought it down to the microcosm of double-dipping or double deductibility, he didn't talk about the debt dumping aspect of it. I'm pleased that he put together a panel of experts, although it hasn't been fleshed out yet, who will hear about a reasonable and responsible way to deal with these things. Would it be your recommendation, if you had the opportunity to make it, that the question of debt dumping be part of that review?

**Ms. Sheila Fraser:** I would expect that review to look at the various threats to the tax base in Canada and the various mechanisms that could be used, broadly. I would expect debt dumping to come up as one of those issues. So, yes, my expectation is that it would be studied. It was an issue when it was last looked at, and nothing would indicate that it has changed since, so we expect it to be there still.

**Hon. Robert Thibault:** On the question of the expertise at CRA to deal with international finance and shelters, I would presume that every industrialized country is having the same problem that we are in that respect. How are the best practices of other countries dealing with this lack of expertise in those areas?

**Ms. Sheila Fraser:** We didn't look too broadly at other countries, but we did look within CRA itself. The greatest problem it's facing is within the greater Toronto area, which is not surprising, given the competition for this kind of expertise, but that is where you obviously would have the most complex files. In other offices, they do have the expertise. It's not that CRA Canada-wide does not have the expertise.

We recognize that they do have a great difficulty competing in the Toronto market. What we have sort of suggested to them is that they need to take advantage of the expertise they have in other offices, use people in those offices who have long experience to deal with the more complex files, and reorganize themselves differently. They sort of said it was an interesting approach, but I'm not sure they are in total agreement with us on that. But I think it's a reality that they will have difficulty getting that expertise in the greater Toronto area.

**Hon. Robert Thibault:** Thank you.

**The Chair:** Further to Mr. Thibault's question, the image I'm getting is that the larger the potential tax liability, naturally the greater the motivation to hire the expertise necessary to develop avoidance strategies. We're not discussing whether they're illegitimate or legitimate, simply the fact that they are available to those who have the resources to put into providing them.

What I have in my mind is an image of Revenue Canada with a bunch of checkers players trying to fight against a bunch of chess players at the corporate level. No matter how you train those checkers players, what I'm concerned about is that once they become great chess players, they'll be hired by corporate Canada to be chess players for them. Is that a legitimate concern?

• (1145)

**Ms. Sheila Fraser:** There is a concern, certainly, in certain markets. The greater Toronto area would be a concern. We noted in

our report, to give you an example, that two of the greater Toronto area offices—and this is in 2006—indicated that more than 40% of their international tax auditors had less than two years of international tax audit experience. Now, they may have had more experience within CRA, but they are going up, as you say, against some of the largest corporations in the country that have very skilled people.

**The Chair:** I don't like the odds, no.

**Ms. Sheila Fraser:** So they need to develop and use the experts, because they do have people with a lot of expertise in other offices.

**The Chair:** Sure. Let's follow that up then.

When I raise this issue or get input from constituents—and perhaps some of my colleagues have this as well—I'm initially dismayed by the fact that certain Canadian companies are able to avoid their tax obligations legitimately. That depresses me. So when I speak to constituents, I must tell you I'm somewhat disappointed in their reaction. The most common reaction I get is, "Where do I get one of those?", or "How can I do that?", not "That's not fair", or "That's not right", or "My taxes are higher."

So maybe we're not exploring the right approach here; maybe we're not even considering the right approach. Instead of chasing around trying to bang the gopher with the hammer, and it's disappearing as fast as we can bang it, maybe we need to make readily available to more Canadians, small and medium enterprises, individuals who work to pay their taxes, the same kinds of mechanisms and give them access on a more level basis to the same kind of expertise that major corporations have.

What do you think of that idea?

**Ms. Sheila Fraser:** Well, I see a couple of issues with that.

**The Chair:** But why? These are legitimate rules. And you, in the past, have expressed concern about.... None of us has expressed concern about avoiding tax; that's an obligation every Canadian has, to avoid paying taxes, right? We have an obligation to avoid paying taxes that we should not be paying. If there's a lack of knowledge among Canadians of legitimate methods—which have been readily available to some for a long time—causing them to pay higher taxes than they should, I think we should all be concerned about that. That's what I'm asking.

**Ms. Sheila Fraser:** I agree with you that if people have, for example, a right to a deduction and are not claiming that deduction, that is not fairness in our system. They should have the ability to get the information to help them. I think the CRA, actually, has a lot of helplines. And people can go out and buy income tax packages for \$10 or \$20 or \$30 today, which can actually be quite helpful with these things.

When we're getting into the larger, more complex issues of transferring assets offshore, it becomes very expensive to do that, so you have to have a certain wherewithal and a certain amount of assets to be able to do that.

**The Chair:** Right, and I want to address that. It's a concern I have, and it's a concern I know Mr. Brison—who's here with us today—expressed in the context of the regulatory constraints faced by business, that regulations are disproportionately difficult for small business to comply with, but easier for large businesses, and he wanted to try to level the playing field. I know it's a concern that many of us who have dealt with the regulatory structures in this country have, and I see a parallel here.

So knowing that a number of small and medium businesses, and individuals, have tried to utilize these cooperative tax haven schemes being marketed, I was somewhat disheartened the other day when the Canada Revenue Agency came and testified they were working hard to shut those down and were addressing them as a real problem. But if that's a real problem for those small guys, and Canada Revenue Agency is focusing on addressing them, I think my concern is that they're doing that at the agency because they're checkers players and they are going after other checkers players when the chess player is escaping the attentiveness that needs to be focused on them.

Do you share a concern about the disproportionate obligation we're placing on small and medium enterprises versus large enterprises in the context of corporate taxation?

**Ms. Sheila Fraser:** I just have a couple of elements in response.

First, when we looked at the last audit in 2007, we found that the Canada Revenue Agency was doing a much better job in assessing the risks to the tax base, and we wouldn't expect that there would be a disproportionate amount of effort being placed on small businesses vis-à-vis large businesses, but that they should surely be doing it on the basis of risk.

The other element I would add is that we have to recall that small businesses do have a favourable tax rate—at least for a certain proportion of their income—versus large businesses.

• (1150)

**The Chair:** But you would agree that there would be a bit of a concern, in terms of the revenue we need to deal with to support this country's social safety net and the various other mechanisms, if all Canadians were readily able to access the techniques we've heard about in this debate that large corporations are able to use?

**Ms. Sheila Fraser:** Well, the techniques being described are things that should not be used, and we're encouraging the Revenue Agency and the government to address them, so I think the committee should be hesitant to recommend that everybody start using these things.

**The Chair:** Good. Well, that's interesting.

Thank you.

[*Translation*]

Mr. St-Cyr, you have five minutes.

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** Thank you, Mr. Chairman.

Thank you, Madam Auditor General, for joining us.

In your 2002 report, you stated that the Canada Customs and Revenue Agency's data showed that Canadian corporations had received \$1.5 billion in dividends from corporations located in Barbados.

Is your office in a position to give us an update on dividends received? Do you have an estimate?

**Ms. Sheila Fraser:** No. Unfortunately, we do not have an update, but the Canada Revenue Agency should be in a position to provide you with this information, because the agency has a data base on international transactions. This is the data base we use to obtain our figures.

**Mr. Thierry St-Cyr:** When CRA officials came to testify before our committee, they told us that this figure was unavailable.

**Ms. Sheila Fraser:** If they need any help in finding this information, we could tell them where to look.

**Mr. Thierry St-Cyr:** Very well.

That said, to get an idea of the numbers involved, can we assume that this amount would be fairly proportional to Canadian investments in Barbados and that the increase in the dividends returned to Canada would also be proportional to these investments?

**Ms. Sheila Fraser:** I would hesitate to draw that conclusion, but I think you can assume that if investments have increased, dividends have as well.

**Mr. Thierry St-Cyr:** All right. From the beginning, this committee has been attempting to estimate the revenue shortfall for taxation authorities, based on the amount which would be collected if this type of loophole were closed.

Have you assessed the other possible adverse effects of tax evasion and the use of tax havens where tax rates are low? I'm thinking, for instance, of public trust in the system, of effectiveness, of long-term economic development.

**Ms. Sheila Fraser:** No. Our audit was mainly focused on the work and activities of the Canada Revenue Agency to protect the tax base.

**Mr. Thierry St-Cyr:** So, that was your main concern. Do you have other concerns?

**Ms. Sheila Fraser:** Yes, in a way, but our audits and our work is always focused on procedures and policy implementation. Other issues like economic impacts, corporate expansion, etc. are political in nature rather than related to management systems.

**Mr. Thierry St-Cyr:** Okay.

This committee has also discussed the concept of residency, because the corporations which use tax treaties to repatriate tax-free dividends must in fact be located in Barbados. That is stipulated in the regulations.

However, witnesses that have appeared before us, including a professor whose name I've forgotten, have told us that it is not always obvious that these corporations have offices in Barbados where the real decisions are being made.

First of all, did you look into this issue? Do you know whether the Canada Revenue Agency does this type of check when carrying out its audits, or does it simply rely on companies acting in good faith?

**Ms. Sheila Fraser:** We did not look into that specifically. But we did point out in our most recent audit that the Canada Revenue Agency had gone after 72 trusts which had managed to transfer approximately \$600 million worth of capital gains.

So, we are expecting the agency to look into this type of issue, to see whether these corporations were legitimate businesses or not. I am certain that this type of issue is being addressed by the agency's auditor.

• (1155)

**Mr. Thierry St-Cyr:** Earlier on, Mr. Crête referred to the relevance for Canada of looking into international tax issues. Do you think that we should include, as part of that study, the issue of residency and suggest clearer, and perhaps more restrictive definitions of the term?

**The Chair:** Thank you very much, Mr. St-Cyr.

[English]

We continue now with Mr. Wallace, for five minutes.

**Mr. Mike Wallace (Burlington, CPC):** Thank you, Mr. Chairman, and thank you for being here.

On a bit of a note, I see that you were in my home riding of Burlington recently to give a speech. My wife was there, and I think she met you and was quite impressed. When an auditor comes to town and you can get people to buy tickets to come to a luncheon, it's an amazing thing.

**Voices:** Oh, oh!

**Mr. Mike Wallace:** So congratulations.

I think you're doing the right thing by getting out to see Canadians and letting them know who you are and what you're about.

I have a couple of really basic questions—

**The Chair:** Perhaps that says something about the social life in Burlington?

**Ms. Sheila Fraser:** If I could just add, I think there were a lot of accountants in the room.

**Mr. Mike Wallace:** There may have been; my wife's not one of them.

I arrived here a little bit late, but in your statement today you talked about what you recommended to Finance Canada in your audit of 2002. My question is really about process. When you do an audit—and let's use this example of what's happening in this area—do you make operational recommendations? When you did this in 2002, did you have a sense of when that work should have been done?

It's great for you to produce all this documentation, and we look at it and so on, but what is your office's expectation with that information?

**Ms. Sheila Fraser:** In most cases, when we make recommendations, and certainly more recently, if the departments agree with the recommendations we make, and sometimes they don't, we would

expect them to produce an action plan with clear timelines as to when they're going to address the issues.

We go back to do a follow-up audit, depending on the action plan and their commitment to taking action. We'll give a report on a follow-up, as we did this past February.

In questions like this, a good number of the issues we were raising here dealt with legislation. Obviously even the departments themselves can't always control.... That's why, when we did the follow-up on the international tax question in CRA, we indicated the agency had made good progress on many of the operational issues, but there were still some very large, complex issues that dealt with legislation over which the agency itself had very little control.

So we can simply note it, but obviously we can only recommend.

**Mr. Mike Wallace:** Okay, but you recommend changes to address the issues. The way it's worded says you highlighted; you asked them to obtain the analyzed current information to reassess the impact. To me that doesn't...I'm not sure what you're saying. There may be an impact, you see an impact, and you need to do something. I'm not sure what that means.

**Ms. Sheila Fraser:** We are very reluctant to recommend legislation or legislative change ourselves. We are coming at this by saying the government needs to assess the situation. The last comprehensive study was done in 1997. Obviously, things could have changed since then. There was very little follow-up to that study, the Mintz report.

There needs to be a study, and the minister has indicated one will be happening, so we would expect out of that there would be recommendations for legislative change, if required.

**Mr. Mike Wallace:** In the 1997 report, there were recommendations.

**Ms. Sheila Fraser:** In the Mintz report, yes.

**Mr. Mike Wallace:** Then in your 2002.... Sorry, were you the auditor in 2002?

• (1200)

**Ms. Sheila Fraser:** In 2002, yes.

**Mr. Mike Wallace:** In your report in 2002 you reviewed what had happened from the 1997 report. Is that correct?

**Ms. Sheila Fraser:** That's right. I think in the 2002 report we would have mentioned the Mintz report and that there had been very little follow-up on it. Since then, again, it's the same situation.

**Mr. Mike Wallace:** The finance minister has announced an advisory panel to look at some of these issues. From your perspective, what would you expect that panel to do?

**Ms. Sheila Fraser:** We would certainly hope they would use the Mintz report as a starting point. I think there was general agreement at the time that it was a very good and very serious review, with a number of recommendations, so that certainly is a starting point, and that they conduct some of the same sort of analysis that was done then to see if there are new threats to the tax base in Canada, if the situation has changed or not, and then come forward with the same kinds of recommendations.

Then, of course, it's the actions taken after that, and if legislative change is required, that it proceed.

[Translation]

**The Chair:** Thank you.

[English]

We continue now with Mr. Brison. Welcome to the committee, Scott. Five minutes to you.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you very much, Mr. Chairman.

Thank you very much for being here today, Ms. Fraser.

I have questions, first of all, on the distinction—and I think there's a lot of confusion—between tax haven and double-dipping. According to Ernst & Young, many people, including the Minister of Finance, are confusing the whole issue of tax havens versus double-dipping. Double-dipping is typically not related to.... Usually, with double-dipping it's a higher tax regime and with tax havens it's a lower tax regime.

Would you agree that the measures taken to address double-dipping, for instance, are very different from those to address tax havens?

**Ms. Sheila Fraser:** Yes, I would agree they are different issues. Double-dipping is essentially getting a deduction against taxable income for an expense, getting that twice in two different jurisdictions, whereas the tax haven is a jurisdiction that has a much lower tax rate than Canada, say, so there is an incentive to move income into that jurisdiction in order that it be taxed at a lower tax rate.

**Hon. Scott Brison:** With double-dipping, you mentioned the two tax jurisdictions. Eliminating the capacity for Canadian companies to use double-dipping will not increase Canadian tax revenues. Is that correct?

**Ms. Sheila Fraser:** My understanding is that the interest—

**Hon. Scott Brison:** On double-dipping.

**Ms. Sheila Fraser:** My understanding is that the interest deduction would not be allowed in Canada, which would in fact increase Canadian tax revenues.

**Hon. Scott Brison:** On double-dipping, they choose one or the other. In all likelihood, they would choose—

**Ms. Sheila Fraser:** Where the highest—

**Hon. Scott Brison:** Yes.

**Ms. Sheila Fraser:** I'm sorry. My understanding of the announcement from the minister was that the deduction would not be allowed in Canada if it was taken somewhere else.

**Hon. Scott Brison:** If it was taken somewhere else. But it could lead to the elimination of double-dipping. I just want to go back to this. Have you done any analysis of the impact on Canada's treasury, on our fisc, of the elimination of double-dipping?

**Ms. Sheila Fraser:** No.

**Hon. Scott Brison:** Would you, as Auditor General, recommend that a government, before it actually implemented such a measure, ought to conduct that type of analysis?

**Ms. Sheila Fraser:** I would have expected the Department of Finance to have done that analysis, yes.

**Hon. Scott Brison:** To have done that before making that change.

**Ms. Sheila Fraser:** Yes.

**Hon. Scott Brison:** Ernst & Young, KPMG, and Deloitte & Touche are saying this will actually increase tax revenues in other countries but not in Canada. It will not have an impact on increasing our tax revenues.

● (1205)

**Ms. Sheila Fraser:** I guess their presumption is that the corporations, then, wouldn't take the deduction in the other country.

**Hon. Scott Brison:** Yes.

When you analyze tax policy, for instance, and you look at issues like leakage, do you take into account tax base and impacts of decisions on the tax base or on macroeconomic...? In fact, you don't consider—

**Ms. Sheila Fraser:** No. I would just like to be precise. We do not do the analysis of tax policy.

We're simply looking at the Canada Revenue Agency and the Department of Finance in terms of what steps do they take to protect the tax base, how aware are they of the various mechanisms taxpayers may be using to avoid paying tax in Canada, and are they doing the necessary analysis and taking the necessary steps to protect the tax base? That is what we would like at.

So we would expect the government to be doing that kind of analysis.

**The Chair:** Thank you, Mr. Brison.

For greater clarification on one of Mr. Brison's questions, because we had a presentation from Revenue Canada here earlier... I want to be sure that I understand. You mentioned that these are two different issues, yet my understanding from Revenue Canada is that they are intertwined. The double-dipping and the tax havens can be intertwined, because essentially you're shifting debt. You're borrowing money in high-tax jurisdictions and shifting it into low-tax jurisdictions.

For example, Canada Co. takes it and ships it to Barbados Co., Barbados Co. then lends the same cash out to another high-tax jurisdiction, the U.S., the U.K., or whatever. So isn't the tax haven functioning as a conduit for the double-dipping? Aren't the two things interrelated? When the minister speaks of the two, he is entirely right in assuming that they are not mutually exclusive, is he not?

**Ms. Sheila Fraser:** They can, of course, be interrelated. It's just that there are two mechanisms.

**The Chair:** Actually, I'll bet there are more.

**Ms. Sheila Fraser:** I'm sure there probably are.

**The Chair:** I'll bet there are many more. I'll bet there are more than we could even imagine.

**Ms. Sheila Fraser:** I'm sure there probably are.

**The Chair:** We'll continue with Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thank you, Mr. Chair.

I also want to pick up on a point made by Mr. Brison. He was speaking about where the tax deductions might be claimed, indicating that these deductions might be claimed in Canada instead of in some other nation, which would reduce Canada's overall tax revenue.

But in fact one of the things we know from Advantage Canada is that Canada is moving toward the lowest corporate rate in the G-7. If that's the case, and corporations can only claim the tax deduction once from interest incurred on foreign debt, they're going to claim it in the highest tax jurisdiction so that they have the most savings from that interest. Isn't that inherently true?

**Ms. Sheila Fraser:** One would presume so, but it would be good to have an analysis of that.

**Mr. Dean Del Mastro:** Sure, but basic economics and finance would say that you're going to claim that deduction where it means the most money to you; you're not going to claim it in a lower-tax jurisdiction. That's basic finance.

I want to go back to something from 2002 that you said. You said:

... hundreds of millions of Canadian tax dollars have been lost to multinational firms because of weaknesses in federal law.

Foreign-based companies have taken advantage of loopholes in Canadian laws to cut millions of dollars from their tax bills here.... At the same time, many of those firms report their earnings in low-tax countries such as Barbados, and pay their taxes there.

Tax rules that reduce tax revenue mean either higher taxes for other taxpayers

—the average Canadian—

or reductions in public expenditures.

—meaning we can't afford to pay for as much of our social safety net.

Nobody wants to pay someone else's taxes. ... It's time to fix this.

This was in 2002. Well, here we are in 2007 and we're talking about entering into steps to eliminate double-dipping. It's time to move on this, wouldn't you agree?

**Ms. Sheila Fraser:** Yes, it's very much time to address this issue. There have been a number of bills introduced over the years, there have been a number proposals made, but there has never been final resolution to this question. We believe that the study that's been announced is good; hopefully, it will look at this broader question and bring forward the changes required to ensure that Canada's tax base is protected.

• (1210)

**Mr. Dean Del Mastro:** Thank you.

**The Chair:** I'm going to try to get several of my colleagues in with some brief questions. We'll try to have brief questions and then allow for a little bit longer answers, if we could.

Mr. McKay, you have three minutes.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** I could listen to this witness all day.

Thank you, Auditor General, for being here.

We all agree around this table, I assume, that this is a pretty complex area. I was rather interested in what you said to Mr. Brison, that you weren't aware of any study that had been done—that was, at least, made available to you when you were writing your reports. It seems to me you've done yeoman's service in producing that report, but in some respects what it does is look at one side of the equation, and what we need to see is the other side of the equation.

We had a witness here from the University of Toronto last week. He said there's a widely held view that the use of offshore financial centres is bad simply because of the tax advantages that come with their use. Then he went on to say that when these financial centres are used, in effect their use stimulates economic activity back in Canada—obviously in head office jobs but frequently in back office jobs.

Financial institutions here in Canada are a classic example, when they invest offshore but the head office work is done here and the back office work is frequently done here. That stimulates people who are technicians; it stimulates all kinds of clerical work, and things of that nature.

My question to you is, when you are preparing these reports, are you caveating your report, or are you familiar with, if you will, the macroeconomic picture of how these offshore financial centres actually stimulate economic activity in this country?

**Ms. Sheila Fraser:** We do not go into the kind of analysis of offshore that is being referred to. What we are really looking at is what the government does to protect the tax base when schemes or transactions are clearly designed only to avoid tax, when it is clear that there is no business reason.

We have the examples of the trusts, for example, where shares in a company are moved off to Barbados or another tax haven, are sold, and the gain is not taxed in Canada, and that is the sole purpose of doing that—those are the kinds of transactions we were focusing on here—or where multinational corporations are essentially dumping debt into Canada. We're recommending that the government really needs to understand what these transactions are, where the abuses can be occurring, and to take the measures to prevent them.

There obviously could be very legitimate reasons for people to do this, to stimulate business, but the studies aren't there. This is a question that's been around for a very long time—

**Hon. John McKay:** We agree that the studies aren't there on the economic activity stimulated. We don't know.

**The Chair:** We agree that more money coming back into Canada because it's not taxed elsewhere is bound to be good for the Canadian economy too, but that's not the point.

Go ahead, Mr. Crête, for three minutes.

[Translation]

**Mr. Paul Crête:** If I've understood you correctly, you say that not only should justice be done, but there should also be the appearance of justice and that, in this case, there is no appearance of justice.

I would like to get back to point 7. You state that the Canada Revenue Agency is not solely responsible for maintaining international tax compliance in Canada and that Tax Litigation Services at Justice Canada and Finance Canada also have obligations in this regard. You also say that all three organizations must work together if the tax base is to be protected.

You are saying this for a reason. Have you noticed that more effort should be made on this front? What type of action would you like to see?

**Ms. Sheila Fraser:** Lately, our work has been mainly focused on the Canada Revenue Agency, but the agency is only responsible for management activities and for ensuring that taxes are collected. Mostly, we want to emphasize that it is really up to the Department of Finance to ensure that the legislative framework is rigorous and that there is a follow-up to the studies. For instance, it would be incumbent on the Department of Finance to follow up on the Mintz report.

• (1215)

**Mr. Paul Crête:** Would you say that the current inertia or lack of action is perhaps due to this lack of coordination?

**Ms. Sheila Fraser:** No, I would not say that. We do not really know why there has been so little follow-up over the years. It is a complex matter, for sure, but a comprehensive study to which there has been very little follow-up was in fact carried out.

**Mr. Paul Crête:** A few weeks ago, you published a study on the effectiveness of legal services.

**Ms. Sheila Fraser:** As a matter of act, we audited the Department of Justice and examined its operations.

**Mr. Paul Crête:** Did you specifically look into finances and revenues or did you carry out a more in-depth assessment of international tax matters?

**Ms. Sheila Fraser:** No, the audit focused on quality management throughout the department, as well as on cost-recovery measures and so forth. We did not target any particular division.

**Mr. Paul Crête:** Thank you.

**The Chair:** Thank you very much.

Ms. Wasylycia-Leis, you have the floor.

[English]

**Ms. Judy Wasylycia-Leis:** Thank you, Mr. Chairperson.

My question is on a related but separate issue. The minister stated on Monday that any savings from double-dipping would go directly against reductions in corporate tax. Is that a normal standard practice within government? Is that acceptable accounting practice?

**Ms. Sheila Fraser:** It's really a question of policy, and we cannot comment on policy.

**Ms. Judy Wasylycia-Leis:** On another policy matter, could you comment at all on the wisdom of our moving to a worldwide income

tax system, in terms of Canadian corporations? Would that at all ease the difficulties of collecting tax and dealing with tax havens?

**Ms. Sheila Fraser:** Again, that is a question of policy.

**Ms. Judy Wasylycia-Leis:** On the issue of tax havens, do we have a limit in this country? Does the Canada Revenue Agency have a limit in terms of time and when they can investigate? The IRS does in the States; they have a three-year limit.

**Ms. Sheila Fraser:** I think it's four years from the date of an assessment of a return, but if there is a suspicion of fraud, they can go back much further than that.

**Ms. Judy Wasylycia-Leis:** I'm referring now to an article that appeared recently from the United States:

...the Government Accountability Office found that IRS agents are so hobbled by "dilatatory tactics" by offshore taxpayers and other problems that it takes almost two and a half years to complete a typical audit.

Therefore, they could never meet the deadline. Do we have any such similar problems here in Canada?

**Ms. Sheila Fraser:** What usually happens is that when the Canada Revenue Agency goes in to do an audit, they will ask the entity being audited to sign a waiver on the limit, so that they are not then bound by that four-year rule.

**Ms. Judy Wasylycia-Leis:** My last question has to do with the Barbados tax haven situation.

A number of years ago the former government was actually able to shut down a significant number of so-called tax havens—I think there were 11, if I'm not mistaken—but left Barbados and a few others. There's a debate that goes on about whether or not we need to renegotiate the tax treaty with Barbados, or do what governments have done in the past. Is there a downside to simply shutting down, if the government were to have the will to shut down Barbados as a tax haven?

**Ms. Sheila Fraser:** We really can't respond to that. Again, it is really a question of policy. There would be much broader implications, and we haven't looked at anything like that.

[Translation]

**The Chair:** Thank you very much.

Mr. Pacetti, you have the floor.

[English]

**Mr. Massimo Pacetti:** If I can pick up where I left off and ask your advice, should the committee recommend that Finance do an analysis or give us an analysis of that exempted surplus—the money that's being repatriated to Canada for which we're giving a dividend tax credit? It doesn't make sense that there's no number out there.

**Ms. Sheila Fraser:** The government should be able to give you the amount of revenue coming back into Canada because they should be able to get that from the database at the Canada Revenue Agency. That's where we were able to get it.

Information on the dividends flowing out may not be as easy to get. I'm not sure they would be able to get that, but certainly the first number they should be able to provide.

**Mr. Massimo Pacetti:** They're taxing dividends coming from private corporations and public corporations at different rates, so I don't see why we couldn't do it for companies that receive dividends through tax havens or an agreement with Barbados. I don't see what the difference would be.

I have two quick questions, and one is on double-dipping. I understand CRA had a problem where they lost a case before the tax court. I'm not sure if it was the appeal division or what it was. But my understanding is that if you're deducting the same expense twice, it's not legal. It shouldn't be allowed.

I don't think anything the government does in the next little while about trying to deny double-dipping is going to change. It's a matter of trying to enforce it or actually catch the double-dippers. So I don't see how it's going to be any different one year, five years, or ten years from now, because it's not legal to deduct interest twice. Am I correct in saying that?

• (1220)

**Ms. Sheila Fraser:** The issue is that it's deducted by two different entities; the Canadian company isn't deducting it twice. It's set up—as was presented earlier by the chair—through a corporate structure so you get the same deduction twice.

**Mr. Massimo Pacetti:** But if CRA is able to prove that the deduction is coming twice, it's not legal and shouldn't be allowed anyway. That's the difficulty in proving there's a double-dip there.

**Ms. Sheila Fraser:** I think it's a little more complex than that.

**Mr. Massimo Pacetti:** Absolutely.

**Ms. Sheila Fraser:** It's not that it's illegal; it's the way it's structured in order to get that deduction twice.

**Mr. Massimo Pacetti:** So how can legislation be drafted to avoid double-dipping?

**Ms. Sheila Fraser:** You'll have to ask Finance.

**Mr. Massimo Pacetti:** Is there one sector in particular that seems to be predominantly using tax havens or countries with tax treaties? High-income, we understand, but does one sector in particular use them, for example, investment holdings, insurance, banks...?

**Ms. Sheila Fraser:** I'm not aware if there is any particular sector. The Revenue Agency might be able to give you some indication of that.

**Mr. Massimo Pacetti:** Okay. Thank you.

Thank you, Mr. Chairman.

[*Translation*]

**The Chair:** Thank you very much, madam.

[*English*]

Thank you to your associates as well for being here. We appreciate your participation in the process.

We'll recess for a short time.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1255)

**The Chair:** Welcome back, committee members. To some new committee members, hello, and thank you for being here.

[*Translation*]

Mr. Chong and Mr. Gourde, welcome.

Pursuant to the order of reference of Tuesday, May 15, 2007, we are considering Bill C-52, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

[*English*]

We have before us the responsibility of dealing with the budget bill.

Yes, Mr. Del Mastro.

**Mr. Dean Del Mastro:** I would like to move a motion, if I could.

**The Chair:** I think that would be in order.

**Mr. Dean Del Mastro:** Thank you.

The motion reads as follows:

That in relation to Bill C-52, that at 11:59 p.m. on Wednesday, May 30th, 2007, if not already disposed of at the committee stage, C-52 shall be deemed adopted without amendment and the Chair ordered to report the Bill back to the House.

• (1300)

**The Chair:** Discussion on that?

Mr. McKay.

**Hon. John McKay:** We're generally agreeable to that motion.

The condition from our side is that there be up to four panels on the Monday, Tuesday, Wednesday, and that in the event that any one of the premiers do choose to attend, they be given some consideration in terms of having a separate panel for them. Other than that, I don't think we really have any other concerns.

**The Chair:** Mr. McKay, for clarification, before I go to Mr. Crête, there are four panels and we would need an additional session to deal with clause-by-clause. Would you consent to adding clause-by-clause at the end of one of those panels?

**Hon. John McKay:** I'm assuming that we'd go immediately into clause-by-clause at the end of the fourth panel.

[*Translation*]

**The Chair:** Thank you very much, sir.

Mr. Crête, you have the floor.

**Mr. Paul Crête:** I am very satisfied by this motion because it will enable us to meet yesterday's objective, in other words allow witnesses to be heard while ensuring that the bill moves forward as quickly as possible. It is important for this legislation to be adopted so that we can implement the budget's provisions.

[English]

**The Chair:** *Merci.*

I want to compliment committee members on their cooperative approach to dealing with this, as opposed to some of our colleagues who have had to display rather rancorous approaches to dealing with issues. I think this is much more productive and much more in keeping with the expectations Canadians have of the way we conduct ourselves.

Mr. Pacetti, then Mr. McKay.

**Mr. Massimo Pacetti:** Thank you, Mr. Chairman.

In terms of process, I don't want to raise it as a point of order, but is the motion properly presented, or do you wish to seek unanimous consent from the committee?

**The Chair:** I don't have a problem with the motion. I think it's fine. If someone wishes to raise objection to it, they're welcome to do so.

I'll continue discussion now.

Mr. McKay first, and then Mr. Dykstra.

**Hon. John McKay:** In terms of process, we've agreed that we would expect to hear 12 witnesses. We've already submitted a witness list of slightly less than 12. We would want to have the understanding that we could have 12 witnesses and we may want to back-fill.

So the question on process is—and to the clerk, I suppose—that we should have a timeline by which we and the NDP will submit our witness lists, and the understanding is that neither the government nor the Bloc will be submitting any witnesses at all.

**The Chair:** Thank you, Mr. McKay.

I would propose to committee members, if they wish to submit suggested witnesses to the clerk's office, they do so by the end of the day today, no later.

I want to make clear to all committee members that I've had requests, at various times since your selection of me as your chair, from various of you, to see the witness lists of other members on the committee. On this, I must tell you, I've been consistent from the get-go—and I will continue to be—that those witness lists that you submit from your particular political party are your business and not the business of others on the committee. I will consistently conduct the affairs of this committee in that way.

That being said, we'll look for the complete and total list of all suggested witnesses by the end of the day, no later, so as to facilitate

the contact that we have to make with the witnesses you desire to hear and get them here at the appropriate time.

Mr. McKay.

**Hon. John McKay:** Both our critic and the—

**The Chair:** I'm sorry, John. Five o'clock this afternoon.

**Hon. John McKay:** Five o'clock is not the issue. The issue is that our critic and your parliamentary secretary are both out of the country. I would respectfully suggest—and I hope members would agree—that we make it Friday, that it be five o'clock tomorrow. We have the entire break week.

**The Chair:** There are some practical challenges to the Monday panels...by Friday.

Is the committee in agreement with that? I see no disagreement, so that will be the understanding.

Mr. Dykstra.

**Mr. Rick Dykstra (St. Catharines, CPC):** I agree with the comments and support the motion. I agree with Mr. McKay's comments about the set-up of the panels, but I want to make sure we are clear on the understanding that we leave the discretion to the chair to arrange setting up the meetings and the timing on Monday and Tuesday.

**Hon. John McKay:** I'm working on the assumption that it will be the usual format.

• (1305)

**Mr. Rick Dykstra:** That's fair. I understand. I just want to make sure we've left the chair the discretion, as we always do, to be able to facilitate that.

**Hon. John McKay:** Okay.

**The Chair:** I appreciate that. Thank you, committee members, for that trust. I know that at various times I test that patience. Nonetheless, I will do my best to preside in a fair manner.

All in favour of that motion?

(Motion agreed to)

**The Chair:** If the committee wishes to depart from the regular hours of sitting, I need a motion to adjourn.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** I so move.

(Motion agreed to)

**The Chair:** The meeting is adjourned.







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