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## Standing Committee on Finance

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**Wednesday, May 30, 2007**

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**Chair**

**Mr. Brian Pallister**

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## Standing Committee on Finance

Wednesday, May 30, 2007

• (1550)

[English]

**The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)):** I call the meeting to order pursuant to the order of reference of Tuesday, May 15, 2007, Bill C-52, an act to implement certain provisions of the budget tabled in Parliament on March 19, 2007.

I assume all committee members have their packages of amendments.

I thank our Finance officials for being here. I see some familiar faces and welcome you back.

I understand we have a number of amendments to deal with. We'll start by postponing dealing with clause 1 until later. I'll ask for the committee's ongoing cooperation, in the best interests of all of us and our guests today, to deal with these in as reasonably prompt a manner as we possibly can.

Mr. McCallum.

**Hon. John McCallum (Markham—Unionville, Lib.):** This is what you might call a friendly suggestion to speed things up.

We have nine amendments and they fall into four categories. So we can either do it clause by clause or, if you wish, it might make things quicker if we do it in clusters.

**The Chair:** I want to do whatever works. If there's agreement among all committee members on that approach...Mr. McCallum is suggesting we deal with the Liberal amendments in a clustered manner.

Is there any procedural problem with that?

**Mr. Michael MacPherson (Procedural Clerk):** There could be.

**The Chair:** There might be a problem later, but if we hit a problem later we'll back away from that approach. Okay?

**Hon. John McCallum:** All right.

(Clauses 2 to 11 inclusive agreed to on division)

(On clause 12)

**The Chair:** We come now to amendment LIB-1 of clause 12.

John, you're suggesting we deal with these as a group. What would you like to do here? I'm told we'll need some input from officials on this one because this amendment could result in an increased tax rate. As you are aware, that would require a ways and means motion, and so on.

**Hon. John McCallum:** The effect of this amendment and a number of others—a total of four—is to replace the 31.5% tax on income trusts with the Liberal proposal you've heard before to have a 10% tax, refundable to Canadian residents. A total of four amendments would give effect to that proposal. Were it to be adopted, it would also be necessary to delete five clauses.

I'm not sure if this is in order, but it might be quicker to deal with those as a cluster and vote on whether the committee wishes to adopt the Liberal income trust proposal.

**The Chair:** What are the numbers of the other amendments you want to cluster with this one, Mr. McCallum?

**Hon. John McCallum:** I have the reference numbers. I can give you a sheet, but it's only in English, or I can read them out to you.

• (1555)

**The Chair:** The reference numbers will be okay.

**Hon. John McCallum:** It's the four numbers there at the top.

**The Chair:** Committee members have the reference numbers in the handouts, so I'll ask your assistance now. Read the reference numbers that Mr. McCallum is referring to, just to be sure we're all talking about the same thing.

**Mr. Michael MacPherson:** They are: 2972643, LIB-1; 2972723, LIB-17; 2975078, LIB-18; and 2975140, LIB-20.

**The Chair:** I'll ask the clerk to read the page numbers just to double-check, and those are page numbers—

**Ms. Miriam Burke (Procedural Clerk):** Liberal amendment L-1 is page 1 at the bottom. Liberal amendment L-17 is page 22. Liberal amendment L-18 is page 25. Liberal amendment L-20 is page 27.

**The Chair:** All right. We have agreement to proceed in this manner. Mr. McCallum, my only hesitation.... I'll need a little guidance here.

Okay, John, I'll just read you the concerns we have so far, and then what I think I'd like to do, before we get into discussion...we'll have to determine if these amendments are in order. The first concern is with Liberal amendment L-1. I'll ask officials to comment on this. The understanding is this might result in an increased tax rate. If that is the case, it would require a ways and means motion and is out of order.

Also, Liberal amendment L-18, which is your page 25, has a conflict in the sense that it could possibly also result in an increase in taxation, and there's a credit and refund aspect to it that requires a royal recommendation.

So those are the concerns. I wonder if there's an official here who would comment on those two specific amendments, if that's possible. Mr. Lalonde, are you...?

**Mr. Gérard Lalonde (Director, Tax Legislation Division, Tax Policy Branch, Department of Finance):** Sure.

The first question you posed is whether the amendments would result in an increased tax?

**The Chair:** That's right.

**Mr. Gérard Lalonde:** If I could seek some clarification, increased from what? From where we were before...?

**The Chair:** John, I'll let you respond.

**Hon. John McCallum:** It's a lower tax, I would have said, from 31.5% to 10%, and the 10% is refundable to Canadian residents.

**Mr. Gérard Lalonde:** I guess my question to the chair is this. Are you asking if this is an increased tax comparable to where we were before October 31, 2006—

**The Chair:** From the bill.

**Mr. Gérard Lalonde:** Oh, from the bill. It would be a reduced tax from what is proposed in the bill.

**The Chair:** Okay.

The second question was the credit and refund aspect on amendment L-18, page 25.

**Mr. Gérard Lalonde:** As I read L-18, it deals with the liability of SIFT trusts for an additional 10% distribution. Then, in addition to the 10% distribution tax, there would be a penalty under the part equal to that distribution tax, and I gather the 10% there is what's being changed from the other provision.

I would like to pose a question, through the chair, to Mr. McCallum. Under the proposals in the bill, the tax that's imposed at the trust level would be creditable through the dividend tax credit mechanism to the beneficiary on the distribution. I'm wondering, are there any amendments in here to fix it so that instead of getting the dividend tax credit that effectively recognizes 31 points of tax, it's been changed to effectively recognize 10 points of tax?

•(1600)

**Hon. John McCallum:** My understanding is that the tax is 10% with no adjustment to dividend tax credit but that the tax is refundable to all Canadian residents. So effectively the tax is only on distributions to non-residents.

**Mr. Gérard Lalonde:** Well, to respond to that question, the way the tax is made refundable to beneficiaries is that the distribution that's made to a Canadian resident and that has been subject to this tax at the trust level is deemed to be a dividend eligible for the dividend tax credit. As a result, they're credited with the dividend tax credit at the individual level.

That's the mechanism for the refund. Unless that mechanism is changed somehow, it will be refunding at a 31% rate, even though, under this proposal, I think the tax would be applied at a 10% rate.

**Hon. John McCallum:** That's why we delete the original clauses 2, 6, 7, 8, and 11. I think that then deals with that problem. Ours is effectively a much simpler situation; it's effectively just a 10% tax on distributions to non-residents.

**The Chair:** Based on these comments, I'm not concerned about the legitimacy of these amendments.

I want you to move to page 23 of your notes. This is in reference to amendment L-17, section 2.1, and I read into the record that:

Every individual who is resident in Canada and liable to pay tax under Part 1 may claim a refund or credit against tax otherwise payable under that Part of an amount designated by the issuer of the security in prescribed form.

Would it be your position that the ability to claim a refund, which is an expenditure—it's a reduction in revenue—makes this particular clause out of order because this would require government spending in addition to the bill? By allowing a refund to be claimed, obviously, that's in essence an expenditure.

**Mr. Gérard Lalonde:** Under the bill as it's formulated, before the amendment, the refund mechanism, in essence, is through the dividend tax credit. The dividend tax credit is a non-refundable credit, and as a result, if an individual were to have insufficient tax to absorb the whole of the dividend tax credit, the person would be entitled to a lesser refund than the full amount of tax paid at the trust level.

If I understand the proposal correctly, in that circumstance, a tax refund would be paid out through the tax system to the investor. That would reduce government revenues, again, not only because of the 10% tax being less than 30%, but also because of the refund being essentially refundable.

I can't say that in either of those circumstances it increases the tax. What it does do is potentially reduce the tax on the one side and potentially increase a refund in circumstances when it might not otherwise be available on the other.

**The Chair:** On that basis, this requires government spending—

**Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.):** No, no.

**The Chair:** —to refund it. Yes, he said the credit has a refund mechanism. It puts in place a refund mechanism using money from the consolidated revenue fund, which is not required under the bill. The bill is a non-refundable credit. This is putting in place a refundable credit that requires the additional use of moneys from the consolidated revenue fund, and therefore that particular amendment is not in order.

**Mr. Massimo Pacetti:** The tax is refundable.

**The Chair:** I rule that that particular amendment, which is amendment reference 2972723, is not in order.

**Hon. John McCallum:** I think there's one point. The government is better off. The amount refunded is less than the tax collected.

•(1605)

**The Chair:** It's a new mechanism for a tax refund, which is not in place in the bill, sir. Therefore, I've already ruled—

**Mr. Massimo Pacetti:** It's not a tax refund.

**The Chair:** Unless you wish to proceed to challenge my ruling, I ruled that that particular amendment is out of order. The other is not.

**Mr. Massimo Pacetti:** If I may, Mr. Chairman, can we ask Mr. Lalonde to repeat what he just said? I don't want to put words in Mr. McCallum's mouth, but his tax is a refundable tax. So the tax that's going to eventually get refunded is not an expenditure. The tax is just a liability. It's not even necessarily going to be in government revenue. We're actually going from 31% to 0%.

**The Chair:** A refundable tax credit is a use of revenue from the consolidated revenue—

**Mr. Massimo Pacetti:** I would prefer if Mr. Lalonde would repeat his statement in which he said it was an additional tax—

**The Chair:** Because I've ruled—

**Mr. Massimo Pacetti:** Its a refundable tax.

**The Chair:** —I cannot allow the discussion to continue on the same ruling, on the same basis. That being the case—

**Mr. Massimo Pacetti:** We have officials here to listen to them.

**The Chair:** Well, we have.

**Mr. Mike Wallace (Burlington, CPC):** Are you challenging the chair?

**The Chair:** If you wish to challenge my ruling—

**Hon. John McCallum:** I challenge the chair's ruling.

**The Chair:** Okay

All in favour of the chair's ruling, so indicate.

*[Ruling of the chair sustained]*

**The Chair:** The chair's ruling is upheld. Now we'll move on.

Mr. McCallum, we have your first amendment and the others, apart from this one. Would you like to speak to that cluster, as you wished earlier?

**Hon. John McCallum:** No. In the interests of time, I think we've discussed this around this table enough. Basically our proposal is for a 10% tax, refundable to all Canadian residents, to replace the 31.5% tax.

**Mr. Massimo Pacetti:** Now it's not going to be refundable.

**The Chair:** All right.

I'll need unanimous consent to treat the block of amendments that Mr. McCallum has here as we discussed earlier. We will vote on the block of amendments, 2972643, 2975078, and 2975140.

(Amendments negatived [See *Minutes of Proceedings*])

**The Chair:** Are those the only amendments for clause 12?

**Mr. Michael MacPherson:** Yes.

**The Chair:** Shall clause 12 carry?

**Mr. Massimo Pacetti:** A recorded vote.

**The Chair:** A recorded vote has been requested by Mr. Pacetti on clause 12.

(Clause 12 agreed to [See *Minutes of Proceedings*])

(On clause 13)

**The Chair:** I have amendment L-2, reference 2972689.

Who would like to speak to that?

**Ms. Diane Ablonczy (Calgary—Nose Hill, CPC):** Mr. Chair, I have a point of order. The government has a technical amendment on the same clause; it may satisfy some of the concerns raised in the Liberal amendment. I just raise that in case you might want to deal with the government amendment first.

**Hon. Robert Thibault (West Nova, Lib.):** What is the number of the government amendment, Diane?

**A voice:** G-1.

**The Chair:** Whom did you want to speak on that one?

**Hon. John McCallum:** I can speak to that.

•(1610)

**The Chair:** Sure. Please do.

**Hon. John McCallum:** This is a purely technical amendment that doesn't question the spirit or intention of the law at all. The amendment is that clause 13 be amended by deleting lines 26 to 32 on page 16.

This amendment removes the definition of “public market”. At a later point in the bill these words will be removed in order to ensure that the bill meets its policy objectives. Currently there is great concern that the wording will capture private partnerships involving such things as law firms. I believe that would be an unfortunate unintended consequence of this bill.

So this is a positive, spirited move to improve the bill.

**Mr. Dean Del Mastro (Peterborough, CPC):** You can't improve this bill!

**An hon. member:** He can't even say it with a straight face.

**Hon. John McCallum:** Or make it less bad.

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

**The Chair:** Is there any other speaker on the amendment?

Yes, Mr. McKay.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** I direct an inquiry to the officials.

This was raised by Mr. Morand yesterday, and it has been raised by others. It may be that ordinary partnerships are in fact caught by the provisions here.

I want to ask the officials the real question, if taking amendment G-1 together with the Liberal amendment—which essentially just deletes the non-portfolio piece—addresses the issues raised, particularly by Mr. Morand in yesterday's testimony, which I assume you've read.

**Mr. Gérard Lalonde:** The proposal in amendment G-1 deals with something different from the deletion of the definition of “public market”. It does overlap somewhat with some of the amendments at the beginning of amendment L-3, but what the government—

**The Chair:** Mr. Lalonde, we're speaking about amendment L-2, though, right now.

**Hon. John McKay:** The parliamentary secretary said there seemed to be possibly some addressing of our concern by their concerns. Is that in fact true?

**Mr. Gérard Lalonde:** It's very true in respect of amendment L-3. There isn't an overlap with respect to amendment L-2. Amendment L-2 would simply remove the definition of “public market”, as you have indicated. It would resolve the concerns of people who have raised issues with that particular definition. It would also provide—

**Hon. John McKay:** Are you saying amendment L-2 would, or amendment G-1?

**Mr. Gérard Lalonde:** Amendment L-2 would resolve some of the issues that were raised with respect to “public market”, which we don't necessarily agree with, but certainly if you made it all go away it would resolve those concerns. However, it would also put in place a facility where trusts and partnerships that would otherwise be subject to these rules could put themselves in a position of recreating a simulacrum or a recreated mechanism to achieve the same result by simply moving off the traditional markets and into a non-traditional or over-the-counter market. That's what this is intended to do. We don't think it turns law firms into SIFT trusts or SIFT partnerships.

So in answer to your question, would it resolve their concerns, yes, it would do that, and it would do a lot more.

**Hon. John McKay:** What would be the “lot more” that it would do?

**Mr. Gérard Lalonde:** As I've just explained, it would open up an avoidance possibility, to avoid the intent of the SIFT trust and SIFT partnership rules by moving the trading function of their units to a non-traditional trading market.

**Hon. John McKay:** So you would effectively move, for example purposes, a trust unit off the TSX into another market form.

**Mr. Gérard Lalonde:** Yes. You'd set up a trading set-up or use an established trading mechanism to provide a market for your units.

**Hon. John McKay:** As long as you arranged your affairs to qualify for this off-market arrangement, you would be able to carry on business as a trust as usual?

**Mr. Gérard Lalonde:** If you were to repeal this, yes.

**Hon. John McKay:** Given that it may not be an acceptable result for the government, what proposals or suggestions can you put into your legislation that address the concerns of Mr. Morand and others? The joint committee of the Canadian Bar Association and the Canadian Institute of Chartered Accountants presumably has some thoughts on this that have some validity. How can you address their concerns?

•(1615)

**Mr. Gérard Lalonde:** You will notice that there is no government motion proposed for this particular measure. It wouldn't be up to me to propose amendments to the bill; it would be up to the government. There are none for this particular measure.

We do talk to the Canadian Institute of Chartered Accountants. We do talk to the Canadian Bar Association. I personally talk to Mr. Morand from time to time, and we also deal with our friends at the Canada Revenue Agency. We do our best to ensure that things like the consequences that have been raised of some interpretations of this provision don't happen.

**The Chair:** Do you have any further questions, Mr. McKay?

**Hon. John McKay:** Yes, I do, actually.

Let me just read you the memo I have, and you tell me whether this is correct.... The tax professional community and the joint committee of the CICA and the bar have brought to the attention of your officials that the legislation you're reviewing today is far broader than anything stated by you publicly or documents that were released. In fact, rather than having application only to publicly traded units and publicly traded partnerships, it can also apply to ordinary partnerships.

Is that the point where you disagree?

**Mr. Gérard Lalonde:** Yes. I don't disagree that they said that; I disagree with the result.

**Hon. John McKay:** I'm trying to make the distinction here between publicly traded units, publicly traded partnerships, and ordinary partnerships like a law firm, which is a private partnership.

When I listened to Mr. Morand yesterday, he didn't seem to think that his law partnership was caught by this sort of thing. Yet it's Canada's largest law firm. So I don't think characterizing it as ordinary partnerships like law firms is quite correct. And it goes on to say that where a borrowing by a partnership from a financial institution is one where the financial institution offloads a portion of the risks through its own trading system, that is not a partnership that should be caught by these rules. Yet the legislation indicates how worried you are to table this in accordance with the committee's recommendation.

So I'm concerned here that the government is—possibly intentionally, but I'll go with unintentionally—blundering into catching partnerships and trades and trust units that were never intended. Is it therefore fair to say that the only way of dealing with it presently, since the government has chosen not to deal with it, is, in effect, to support amendment L-2?

**Mr. Gérard Lalonde:** No, I don't agree with that.

**Hon. John McKay:** It's a pretty unsatisfactory answer, Mr. Lalonde, to say “well, I don't agree with it”, given that the experts in Canada have said this is a serious issue.

**Mr. Gérard Lalonde:** You started off with an explanation that the experts in Canada said it could potentially apply to a garden variety partnership, and you asked if I agreed with that, and I said no. Then you went on to say that in fact that's right, you don't agree with it either. So we don't think there's a particular problem there, and apparently Mr. Morand doesn't think there's a particular problem there.

With respect to whether a partnership that's offloading risk into some other vehicle is potentially caught by these rules or not caught by these rules, I'm not sure what "offloading risk" means, and I'm not about to venture an opinion on that in the course of testifying here on something that obviously merits much more discussion.

**The Chair:** Mr. Thibault.

**Hon. Robert Thibault:** Perhaps I can focus it a bit. If I remember correctly from what was presented yesterday by Mr. Morand, if two corporate entities, or a corporate entity and an individual, form a partnership to carry on one project, they could be caught by this rule. But I don't think it would be the intention of the bill. I think the intention of the bill would be that they continue to be taxed, as in the past, on the profit of the venture by the two corporate or individual entities that created that partnership.

But with this bill, the understanding I had is that there would be a 31% tax on distribution out of that partnership before the profits are distributed to the two or more partners within the partnership.

• (1620)

**Mr. Gérard Lalonde:** With respect to certain publicly traded trusts and partnerships, this talks about what a public market is, and it talks about a trading system or other organized facility on which securities that are qualified for public distribution are listed or traded. Then it goes on to say that it does not include a facility operated solely to carry out the issuance of a security or its redemption, acquisition, or cancellation by its issuer. For the example that you've posed, I just don't see any organized facility on which securities are qualified for public distribution and listed or traded.

**Hon. Robert Thibault:** There would have been a 31% tax on that distribution.

**Mr. Gérard Lalonde:** I wouldn't have thought that that would have caused them to fall under the SIFT rules.

**The Chair:** There is no further discussion?

The amendment before you is L-2. All in favour?

(Amendment negated)

**The Chair:** On G-1, page 3, there's a line conflict with L-3. If G-1 is adopted, L-3 cannot be proceeded with. We will discuss G-1 first, obviously.

**Hon. John McCallum:** I withdraw L-3 to L-12, Mr. Chair.

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

Diane, would you like to speak to G-1?

**Ms. Diane Ablonczy:** This is a simple technical amendment, as the members can see, Mr. Chairman. It proposes simply, in short, that the definition of REIT include any share or interest in which a REIT trust may be involved to make sure that all the operations of the

REIT are caught by the provisions. So it's a clarification, basically, on what the scope is for a REIT operation.

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** We move to Liberal amendment L-13.

Mr. McCallum or Mr. McKay.

John, which John do we want?

**Hon. John McCallum:** I think L-13 and L-18 are a cluster.

**The Chair:** Well...

**Hon. John McCallum:** I'll just do L-13, if you wish.

**The Chair:** Yes, would you?

**Hon. John McCallum:** L-18 is the same thing.

**The Chair:** We can withdraw L-18 if L-13 doesn't go. Let's do it that way.

**Hon. John McCallum:** Okay.

[*Translation*]

Obviously, as Liberals, our preference goes to our first choice, which is the solution put forward in the committee's report. However, this committee has already voted against our proposal. The committee's report included two proposals to choose from: one from the Liberals and one from the Bloc québécois. Given that the Liberals' proposal has just been defeated, we suggest that the Bloc's proposal be adopted.

As I explained earlier, the Liberals' idea was to bring down the tax from 31% to 10%, but for non-Canadians only. According to experts, this would have allowed to recover two thirds of the funds that were lost. As mentioned in the press release from the Bloc québécois, the transition period would be extended to ten years instead of four. In our opinion, it is not the best solution, but it is better than the status quo.

In LIB-13, we are putting forward the Bloc québécois solution. It is simple and does not change anything, except for the transition period which is 10 years instead of four. This ten-year period would give businesses more time to adjust and it would increase the odds that a government may come up with something better.

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

Ms. Ablonczy.

[*English*]

**Ms. Diane Ablonczy:** Mr. Chairman, what I heard in our discussions surrounding this whole issue, and we did have hearings on it, was that the Bloc members on the committee at the time wanted to explore the possibility of extending the transition period and they wanted to hear some evidence about that. But I don't think they had any particular commitment to one number or another at that time; they simply wanted to get more evidence—as we all did. So I don't think it's really fair to put a position in the mouth of any other party who really wasn't there.

I just wanted to clarify that.

• (1625)

**The Chair:** Heaven forbid that that would ever happen.

Is there any further commentary?

Monsieur Crête.

[*Translation*]

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Let's not forget that when we examined the report, the bill had not been submitted to us. We wanted to find the best possible solution. However, in the present context, what we really hope for is speedy passage of the bill so that the budget can be implemented as soon as possible.

[*English*]

**The Chair:** Are there any further comments?

**Mr. Massimo Pacetti:** I'd like a recorded vote.

**The Chair:** We have a recorded vote on amendment L-13.

(Amendment negatived [See *Minutes of Proceedings*])

**The Chair:** The amendment is defeated.

Now to amendment L-14. Is that withdrawn?

**Hon. John McCallum:** No, it's not withdrawn. This is the last amendment I have, L-14. Is that what you're calling for now?

**The Chair:** Yes, please.

It's L-18 that you were going to withdraw?

**Hon. John McCallum:** Yes. L-18 is withdrawn, since L-13 is defeated.

This amendment deals with the authority of Parliament to raise a new tax. The member from Scarborough—Rouge River brought this issue to the Speaker's attention some weeks ago, through a point of order.

As the bill is currently phrased, the Department of Finance has the ability to change any of the new rules from time to time through a simple press release. We, as parliamentarians, must admit that this is not a good precedent to set, particularly in the realm of taxation, which is a power that belongs to the House of Commons.

The amendment I'm proposing here would ensure that any such changes must be substantially in accordance with the original guidelines issued by the Department of Finance and they can only be done by regulation. The essence of the amendment is to ensure government by regulation and legislation, not by a press release.

Another way of expressing this point is that I believe it raises the accountability level of the law. We believe that government by press release does not display sufficient accountability.

**Mr. Massimo Pacetti:** Good point. Agreed.

**The Chair:** Before we proceed with any discussion, John, I said L-18 in error. I believe L-19 is the amendment you would want to withdraw.

**Hon. John McCallum:** I thought it was L-18.

**The Chair:** No, it was L-19.

**Hon. John McCallum:** Okay.

**The Chair:** Any further discussion?

Mr. McKay.

**Hon. John McKay:** I want to ask the officials whether the concern by the member from Scarborough—Rouge River is in fact well founded.

Did you, on December 16, in effect create a tax?

**Mr. Gérard Lalonde:** Did we create a tax on December 16? Is that your question?

**The Chair:** Excuse me.

You have a point of order, Madam Ablonczy.

**Ms. Diane Ablonczy:** I believe this same issue was raised in the House of Commons and was ruled on by the Speaker. I don't think it's appropriate that we ask for a quasi-ruling by officials on this. It has been dealt with in Parliament.

**Hon. John McKay:** All I meant was whether they did it.

Have you in fact effectively set a tax rate by press release?

**Mr. Gérard Lalonde:** Not at all. There's nothing in here that refers to the rate. There was a press release on October 31 by our minister that indicated that an earlier coming into force of the provision would apply where the growth in the trust exceeded normal growth. There was a great demand for clarification as to what normal growth was. The government put the guidelines out on December 15, I think it was. That provided information as to what the perception of normal growth was.

As I read this particular amendment, it would preclude the ability of the department to provide relieving amendments to accommodate unforeseen situations that might require additions to what normal growth would be. As I read this, the prescribed growth and merger guidelines would have to be substantially in accordance with the normal growth guidelines issued by the Department of Finance on December 15, 2006. Thus, we would be precluded from going beyond those.

• (1630)

**The Chair:** Madam Ablonczy.

**Ms. Diane Ablonczy:** Well, I made the point, but it seems to have been lost. This whole question was raised by the Liberals in the House. The Speaker found that the interpretation the Liberals placed on this course of communications was not justified. I don't think hashing it over here with an official is an appropriate course of action. I think we should move on.

**The Chair:** That's fine. It's not a point of order, but it is a point.

Mr. McCallum.

**Hon. John McCallum:** I think we're just trying to figure out what's going on here. As I understand it, the press release says the Department of Finance has the ability to change the new rules from time to time through a press release. Those rules could govern whether a trust of any particular kind is forced to convert to a corporation or not, which would then affect the tax paid by that trust. In effect, through a press release, the Department of Finance has the ability to change the rules of the game and to capture new trusts as corporations, or other actions of this kind. Is that not the case?

**The Chair:** Mr. Lalonde, you've responded to an identical question already. So look, if we have to—

**Hon. John McCallum:** No. He talked about rate. I'm asking about changing the rules of the game.

What you said is that the rate could not be changed. I'm asking whether the rules could be changed. That's the question.

**Mr. Gérard Lalonde:** I'll leave it to the chair as to whether I should respond.

**Hon. John McCallum:** Perhaps you could just say yes or no, and then we could move on.

**The Chair:** I'm trying to give broader parameters to the discussion, but we're stretching credibility on this one, I think.

If there is no further discussion, all in favour of this amendment so indicate?

(Amendment negated [See *Minutes of Proceedings*])

(Clause 13 as amended agreed to on division)

(Clauses 14 to 18 inclusive agreed to on division)

(On clause 19)

**The Chair:** We have amendment G-2 on clause 19.

Madam Ablonczy.

**Ms. Diane Ablonczy:** Mr. Chairman, this is again another technical amendment to ensure that pensioners who receive RRIF withdrawals on a monthly basis, as opposed to a yearly basis, have a level playing field, and also that the changes do not inadvertently increase non-resident withholding taxes or trigger spousal income attribution.

Those are just clarifying words there, Mr. Speaker—or Mr. Chairman.

**The Chair:** Thank you for that promotion.

**Ms. Diane Ablonczy:** But I would vote for you for Speaker.

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

(Amendment agreed to on division [See *Minutes of Proceedings*])

(Clause 19 as amended agreed to on division)

(Clauses 20 to 23 inclusive agreed to on division)

(On clause 24)

**The Chair:** We are now at L-15.

Mr. McCallum.

**Hon. John McCallum:** I believe I'm out of amendments.

**The Chair:** You have L-15 and L-16.

•(1635)

**Hon. John McCallum:** These are most of our real estate amendments that we dropped. Anything to do with real estate—

**The Chair:** Those are dropped?

**Hon. John McCallum:** Well, we got them a little late. I don't think they'll pass. They're highly technical, so I think we would just drop all the amendments related to real estate.

[*Translation*]

**The Chair:** Shall clause 24 carry?

(Clause 24 agreed to on division.)

**Le président:** Shall clause 43 carry?

(Clause 43 agreed to on division.)

[*English*]

(On clause 44)

**The Chair:** Amendment G-3. We are now on clause 44, on page 28 of your amendments book.

Madam Ablonczy.

**Ms. Diane Ablonczy:** Mr. Chairman, this extends the date for delivery of a fuel-efficient automobile from July 2007 to October 2007, as a practical matter. It appeared that time for delivery did need to be extended, so that is what this amendment effects. That's on page 49, right at the end of subclause 44(2).

(Amendment agreed to on division [See *Minutes of Proceedings*])

**The Chair:** Mr. Pacetti, you submitted an amendment that proposes that we delete the clause; however, if you simply vote against the clause, that would be a non-admissible amendment—

**Mr. Massimo Pacetti:** Perhaps I could just speak to clause 44, and then we can decide whether we vote for it or against it.

**The Chair:** Okay, I'll allow that.

**Mr. Massimo Pacetti:** I'm going to be very brief, Mr. Chairman. It's just based on the testimony we heard yesterday from Mr. Nantais from the Canadian Vehicle Manufacturers' Association, and I think it's also going to help some of the people around the table.

Also, in today's *Globe and Mail*, we have where Mr. Flaherty has decided to change his mind, just in case anybody hasn't spoken to him. I'm just going to quote two items in the newspaper article. One item is what Mr. Nantais said yesterday. It reads:

At a time when facilities are being closed in many regions of the world because of global overcapacity—including some in Canada—capital is no longer fixed and can be moved globally and every dollar on the bottom line is being counted.

If we keep that in mind, we can go on and see what Mr. Flaherty is now saying, subsequent to yesterday's testimony by Mr. Nantais. The item reads:

Mr. Flaherty suggested, however, that the fuel-efficiency cut-off point for the subsidy could be revised in the future.

"That can change over time," Mr. Flaherty said.

If Mr. Flaherty feels that way, I think we should just put off clause 44, vote against it, and when he's ready, reintroduce it.

This is an olive branch, as they say. I see Mr. Dykstra and some of the other members looking at me, but it's going to help the people from Ontario more than it's going to help people from Quebec.

**The Chair:** Any further discussion?

**Mr. Massimo Pacetti:** I don't know if the Finance officials have anything to contribute to that.

**A witness:** Happily for me, it's somebody from a different division.

**Mr. Alex Lessard (Tax Policy Officer, Sales Tax Division, Tax Policy Branch, Department of Finance):** I believe you referred to the 6.5%, so you referred to the rebate part of the EI.

**Mr. Massimo Pacetti:** The feebate. Yes, the whole thing.

I'm not against it, but I'm just looking at....

Based on the testimony I have here, I'm quoting what Mr. Flaherty said. If he's willing to revise it in the future, why don't we just revise the policy in the future?

• (1640)

**Ms. Lise Potvin (Director, Sales Tax Division, Tax Policy, Department of Finance):** My understanding is that this amendment would have the effect of eliminating the green levy altogether.

**The Chair:** We're voting on clause 44 as amended by G-3 earlier.

**Mr. Massimo Pacetti:** I'd like a recorded vote.

(Clause 44 as amended agreed to [See *Minutes of Proceedings*])

(Clauses 45 to 48 inclusive agreed to on division)

**The Chair:** NDP-1, which is new clause 48.1.

Ms. Wasylycia-Leis.

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

This is a very responsible proposal to the bill. It pertains, of course, to the visitor GST rebate program and the changes that were made. I know we can't make any amendments to this bill that would cause the deletion of this whole area or change the amounts of money involved; however, we can call for a review of this provision after a period of time. I'm recommending a year after amendments come into force, so we can determine whether the concerns of the tourism industry and many of the other organizations that came to see us, like the hotel association, are legitimate and whether or not there's been a serious impact on tourism, on visits from other countries, and the health of the industry as a whole.

I would urge folks to approve this. It follows some concerns we read about in the paper, in the news, just this past week about some German and Dutch operators who say they're going to stop selling Canadian tour packages this year because of these changes to the GST rebate program for foreign visitors.

I think the best we can do today, since there's probably no will to delete the clause and go back to the full GST rebate program, is to have a timely review and to then have that reported back to Parliament.

**The Chair:** Any further commentary?

Mr. Wallace.

**Mr. Mike Wallace:** Just one comment. If this happens to pass and we support it on this side, does that mean the NDP would support the budget?

**Ms. Judy Wasylycia-Leis:** No.

**Mr. Mike Wallace:** Thank you. That's all I wanted to know.

**The Chair:** Ms. Ablonczy.

**Ms. Diane Ablonczy:** I agree with the intent of this motion, but I think there are some technical problems with it. Perhaps the officials can help with that. I know my friend would be interested in that.

Also, if we're going to do something like this, it should not be in the context of an amendment to the budget; it should be a separate motion by this committee. I suggest the officials talk about the technical merits of this motion.

**The Chair:** Mr. Thibault.

**Ms. Diane Ablonczy:** Could we have the officials comment?

**The Chair:** Sure, if you wish.

**Mr. Pierre Mercille (Chief, GST Legislation, Sales Tax Division, Tax Policy Branch, Department of Finance):** I'm not sure if your intent is to have a kind of analysis of the full measure in this budget to repeal the old visitor rebate and replace it with the more targeted program that is suggested in the budget, because the program goes from clause 45 to clause 51. It's something that would produce a report on section 48.

In the old program, if you were a visitor you could have a rebate for a hotel room. The new program is more targeted to hotel rooms included in tour packages.

There may be another issue about the timeline. You're giving 60 days after the end of the year to produce a report on that year following consultations. There may be a problem of availability of data that quickly, to be able to analyze something that just happened during the year. You are also asking for consultation before the report is produced.

• (1645)

**The Chair:** All right. Thank you.

Monsieur Crête.

[*Translation*]

**Mr. Paul Crête:** Would my NDP colleague be prepared to consider that the committee is ready to accept an NDP motion reflecting this spirit? Such a motion would be deemed in order by all parties right now and would be examined at our next sitting, therefore allowing us to meet our objective, knowing the result. This way, we would obtain the desired result while at the same time eliminating the negative aspects mentioned by our witness. Those results raise other issues but they are nonetheless compelling arguments.

Should you agree that the committee proceed in this fashion, it would be interesting. The amendment could be either withdrawn or defeated. However, it would be better if it were withdrawn, providing that we have a guarantee that the committee would accept the proposal.

**Ms. Judy Wasylycia-Leis:** I would prefer that we keep this amendment to the bill in order to ensure that the impact of those changes would be reviewed. In answer to the officials, I would like to see a comprehensive study of this issue, including the changes announced by the government three months ago. This amendment may not be in the right place in the bill but it would be easy to change that.

In terms of the 60 day period to produce a report, it seems to me that we should try to comply. If there are no data allowing to conduct a comprehensive study, we could mention that in the report and ask for more time.

Consequently, I would choose to maintain this amendment and I would like to get the support of all committee members. If my colleagues are not prepared to adopt it today, I intend to make it into a motion to be submitted to the committee as soon as possible.

**The Chair:** Fine. Thank you.

[*English*]

(Amendment negated)

(Clauses 49 to 60 inclusive agreed to on division)

**The Chair:** NDP-2.

**Ms. Judy Wasylycia-Leis:** Another—

**Mr. Dean Del Mastro (Peterborough, CPC):** Sorry, Mr. Chair. Is it clause 61? You said clauses 49 to 60, didn't you? Yes, it's clause 61.

**The Chair:** Clause 61, NDP-2.

**Mr. Dean Del Mastro:** Clause 62 has NDP-2. All I'm saying is you missed clause 61. NDP-2 is on clause 62.

**Mr. Mike Wallace:** That's what it says in the book here.

**Mr. Dean Del Mastro:** That's what it says on our list.

**The Chair:** Anyway, we're going to Judy, in the interest of—

**Mr. Dean Del Mastro:** That is clause 62. We're on clause 61.

**The Chair:** Okay. I had a misprint.

(Clause 61 agreed to on division)

(On clause 62—*Enactment of Act*)

**The Chair:** Okay, this is clause 62. You're suggesting we should propose to deal with NDP-3 first.

Do you want to deal with them together?

• (1650)

**Ms. Judy Wasylycia-Leis:** Yes.

[*Translation*]

**The Chair:** Agreed.

[*English*]

**Ms. Judy Wasylycia-Leis:** First of all, Mr. Chairperson, these two amendments arise from the fact that we've had repeated practice on the part of this government and the past government to lowball the surplus to the point where a huge amount of dollars are automatically put against the debt, because in fact they are beyond the scope of the parliamentary process and the timelines by which Canadians could have some say. So my preference would be of course to have this government do what it asked the last government to do, which would be to start getting into proper economic forecasting and avoid a situation where you have such a huge surplus, for which there's no directive from Parliament.

Mr. Chair, I would remind you that in fact we, by a consensus, all agree that a certain portion of the budget of the surplus should be set aside for debt reduction. We have agreed that there be at least a \$3 billion contingency every year that then goes against the debt. We have never agreed, as a Parliament, nor have the Canadian people ever agreed, that we should allow this lowballing to the point where

billions and billions of dollars, which could be spent on any number of important areas, are automatically put against the debt.

The members are under this illusion that suddenly all this money is going to come back into the hands of Canadians and provide Canadians with the wherewithal to counter the cutbacks that have happened in health care, the rising costs in education, the soaring transportation costs, the problems around the infrastructure deficit, and so on.

The issue here is really one of proper parliamentary oversight. It seems to me that when you have, as we've always said, a leaky roof, you are not likely to put all your money to pay off your mortgage and not fix your leaky roof, because you know that if you don't fix your leaky roof you won't have a house left.

The point of having proper economic forecasts is so we can all make proper decisions about where the priorities are and ensure that some of this money could have gone, would have gone, to deal with third world conditions on reserves, might have gone to keep our oceans from dying, might have gone to stop the manufacturing crisis—

**The Chair:** Thank you.

**Ms. Judy Wasylycia-Leis:** I'm almost done, Mr. Chair.

**The Chair:** No, I'm sorry, you are done.

**Ms. Judy Wasylycia-Leis:** Is there a time limit, Mr. Chair?

**The Chair:** No, you are done.

**Ms. Judy Wasylycia-Leis:** Is there a time limit?

**The Chair:** No. I gave you an opportunity to put yourself on record. You have, at some length, and I am now going to tell you that I'm ruling this amendment out of order.

**Ms. Judy Wasylycia-Leis:** Why?

**The Chair:** Because it's out of order. It's beyond the scope of the bill and it changes the fundamental nature of the bill itself, so it's out of order.

**Ms. Judy Wasylycia-Leis:** Could I just ask for information?

**The Chair:** You now—

**Ms. Judy Wasylycia-Leis:** On a point of information.

**The Chair:** No. You can challenge my ruling, though, if you'd like.

**Ms. Judy Wasylycia-Leis:** No. Could I just get a clarification? This actually simply says that instead of the money going to the tax-back guarantee—

**The Chair:** Yes, it fundamentally changes the bill.

**Ms. Judy Wasylycia-Leis:** —that it would go towards dealing with the infrastructure deficit.

Now, I would suggest, Mr. Chair, that that's not against the bill; it's just a different allocation—

**The Chair:** Yes, it sure is.

**Ms. Judy Wasylycia-Leis:** —of the money that's available because of the lowballing—

**The Chair:** That's just a titch different, yes.

**Ms. Judy Wasylycia-Leis:** —of our surplus by this government and past governments, which has added up to \$100 billion.

**The Chair:** Yes, it's out of order.

**Ms. Judy Wasylycia-Leis:** That's \$80 billion by Liberals and \$20 billion by Conservatives.

**The Chair:** Not only is it outside the scope of the bill, but it also—

**Ms. Judy Wasylycia-Leis:** You're not as bad as they are, but you're getting there.

**The Chair:** Going back to amendment NDP-2, which essentially changes the title to “An Act to dedicate to municipal infrastructure funding”, you wouldn't need to change that title because NDP-3 is out of order.

So they're both out of order, and we'll move on now.

**Hon. John McCallum:** Why didn't you tell her it was out of order before that long speech?

**The Chair:** Well, I'm trying to not hold the reins too tightly, as you know.

(Clause 62 agreed to on division)

(Clauses 63 to 126 inclusive agreed to on division)

• (1655)

**The Chair:** Now, government amendment G-4 on clause 127 is inadmissible, according to my advisers here. They don't want to be on record.

Amendment G-4, I'm advised, my colleagues and friends, is an amendment that I believe you have, although I don't—

**Mr. Michael MacPherson:** Yes, it's at the very last.

**The Chair:** Oh, okay. It proposes to amend the title—

**Mr. Massimo Pacetti:** It's out of order.

**The Chair:** It proposes to amend the title. In some committees that's been acceptable and in others not, so I'm given some latitude.

I'll let it proceed, and I'll ask the parliamentary secretary to make some brief remarks as to this amendment and its rationale.

**Ms. Diane Ablonczy:** Thank you, Mr. Chairman.

Members will know that the term “ecoTrust” seems to have intruded into the domain of an existing entity. Therefore, in the spirit of fair play and helping to smooth any troubled waters, the title should be changed to “Clean Air and Climate Change Trust Fund”. That way we're not stepping on the toes of any other entity that's already operating.

I think it's a sensible change; it's a small but important one.

**The Chair:** Is there any further comment on that?

Mr. Pacetti.

**Mr. Massimo Pacetti:** I'm uncomfortable going into uncharted waters. You've just thrown a whole bunch of substantive changes out. This is a substantive change when we're changing a title. You're going from “Canada ecoTrust” to “Clean Air”. You're taking that out.

If the government decides to change its mind every month on its environmental policies.... You can't do that in legislation. This is why the legislation was put forward. We can't just go ahead and change titles. No, this is something you should be ruling out of order.

If you're asking for unanimous consent from the committee, that's one thing, but this is—

**The Chair:** No, I'm not.

**Mr. Massimo Pacetti:** Oh, God forbid.

**The Chair:** No, I'm not, Mr. Pacetti. I've actually already ruled it in order, and—

**Mr. Massimo Pacetti:** This should be ruled out of order.

**The Chair:** Well, then, Mr. Pacetti, you can actually ask for a challenge to the chair's ruling.

**Mr. Massimo Pacetti:** I am going to ask for a challenge, Mr. Chair.

**The Chair:** You are?

**Mr. Massimo Pacetti:** Yes, I am.

**The Chair:** At this point?

**Mr. Massimo Pacetti:** Well, we either vote for it...but I would rather challenge—

**The Chair:** Well, Mr. Pacetti, I just asked you, if you want to challenge the chair on this one.... Please, I'd encourage you to make a decision on how you want to proceed.

**Mr. Massimo Pacetti:** No, I am asking how you've ruled. If you've ruled—

**The Chair:** I've ruled in favour of this amendment.

**Mr. Massimo Pacetti:** Well, I want to understand why this amendment is acceptable whereas other amendments have not been.

**The Chair:** Well, Mr. Pacetti, this one's acceptable, and I've made my ruling on the others on the basis of the facts presented to me. And I will continue to do it that way.

Now, all in favour of amendment G-4, so indicate. And opposed?

(Amendment agreed to)

(Clause 127 as amended agreed to on division)

(Clauses 128 to 156 inclusive agreed to on division)

(Clause 1 agreed to on division)

**The Chair:** Shall the title pass?

**Some hon. members:** Agreed.

**Some hon. members:** On division.

**The Chair:** Shall the bill as amended carry?

**Mr. Massimo Pacetti:** I request a recorded vote.

(Bill C-52 as amended agreed to [See *Minutes of Proceedings*])

**The Chair:** Shall I report the bill as amended to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Chair:** To my colleagues, thank you for your assistance and conduct in this important matter.

chance to delve into that. I've just made this decision, but we look forward to seeing you next week.

Also, you may have noticed that you haven't received a notice of meeting for tomorrow. I hope this is acceptable. We haven't had a

We are adjourned.

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