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Chair

The Honourable Wayne Easter

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● (0850)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I'll call the meeting to order.

As members certainly know, we're dealing with Bill C-86, the budget implementation act 2018, number two.

To start off this morning, we have officials related to a number of areas in the bill: part 1, part 2, part 3 and some of the divisions in part 4, hopefully.

We'll start with part 1. With us we have, from the finance tax department, Trevor McGowan, Pierre Leblanc and Blaine Langdon.

I'll let you introduce people, Mr. McGowan, and you can start from there.

I would remind members that when we're dealing with officials on the bill, we stick to questions related to that particular area of the bill. For the more general and broader questions, we will go to the minister when he comes.

Mr. McGowan, the floor is yours. Welcome.

Mr. Trevor McGowan (Director General, Tax Legislation Division, Tax Policy Branch, Department of Finance): Thank you, Mr. Chair.

I was going to go through each of the measures in the bill briefly, in the order in which they appear. If it would be helpful to committee members, I could also provide the relevant clause numbering for each of the measures. I understand this is a prestudy and the packages haven't been sent.

The first measure in the bill relates to what are called foreign divisive reorganizations and provide the appropriate tax consequences for a Canadian investor in a foreign corporation that essentially splits in two in a particular type of transaction. That can be found in clauses 2 and 39 of the bill.

The next measure amends the cross-border surplus stripping rules to apply appropriately and clearly in the case where partnerships or trusts are used in a cross-border structure. The cross-border anti-surplus stripping rules are an existing set of rules that prevent the extraction of retained earnings tax-free from Canada to a foreign investor. These rules ensure that when partnerships and trusts are used in a corporate structure, the rules work appropriately by essentially looking through the partnerships and trusts. These can be found in clauses 3 to 5, as well as clauses 14 and 21 of the bill.

The next set of measures—

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Sorry. Good morning, Mr. McGowan. Can you just repeat that last part? We're trying to write down some details as you're going and it's a little fast.

The Chair: He wants the parts of the bill.

Mr. Francesco Sorbara: Yes, could you repeat the parts of the bill again, please.

Mr. Trevor McGowan: Of course, I would be happy to.

For the first measure, the divisive reorganizations, it is clauses 2 and 39. For the second measure, the cross-border surplus stripping involving partnerships and trusts, that is clauses 3 to 5, as well as 14 and 21.

The Chair: Okay.

Mr. Trevor McGowan: I'll combine the next two sets of measures. They deal with foreign affiliate rules. There's a set of currently existing rules in the Income Tax Act that prevents the shifting of income on passive property offshore to a controlled foreign affiliate of a taxpayer. If you have that kind of passive income held in one of your controlled foreign affiliates, it's taxable in Canada on an accrual basis, so every year.

Recent tax planning techniques have evolved to use what are called tracking shares in order to avoid this accrual and taxation of passive income. These measures would prevent the use of tracking shares to avoid the foreign accrual property income regime, both by artificially meeting a five employee test and also through the avoidance of controlled foreign affiliate status itself. These are found in clauses 6 and 7 of the bill.

Also, another foreign affiliate measure relates to the rules for trading or dealing in indebtedness. It essentially aligns the rules for trading or dealing in indebtedness with the rules that relate to investment businesses, to better ensure consistency within the tax regime for foreign affiliates. That is also found in clause 7 of the bill.

The next measure relates to the at-risk rules for limited partnerships. It ensures that the currently existing at-risk rules for limited partnerships apply appropriately in a situation where there is a tiered structure of partnerships—that is to say, where one member of a limited partnership is itself a limited partnership—and it ensures the at-risk rules work appropriately in that situation. The at-risk rules restrict the deduction of losses and expenses by limited partners of a partnership to the amount that they, in effect, put at risk in the partnership. Therefore, if you invest $100, generally speaking, you can deduct up to $100 of losses in respect of the partnership interest. This ensures that the rules work appropriately where there are multiple tiers of partnerships. It is found in clause 8 of the bill.

The next measure relates to tax relief for Canadian Armed Forces personnel and police officers on international police operations. It allows international police missions to be eligible for the purposes of a deduction from income tax that is available for Canadian Armed Forces members deployed on certain designated international missions. It is found in clause 9 of the bill.

The next measure—

● (0855)

The Chair: Just so that members are clear where we're at, that would be part 1(f) that we just dealt with. Thanks.

Mr. Trevor McGowan: The next measure relates to artificial losses using equity-based financial instruments. These amendments tighten up and improve upon gaps or weaknesses in the currently existing rules that prevent the creation of artificial losses by primarily financial institutions on certain equity-based transactions.

The Chair: Mr. Julian.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you, Mr. Chair.

Coming back to clause 9, it says “assessed for risk allowance at level 3 or higher” or “assessed at a risk score greater than 1.99 and less than 2.50”. Can you explain to us how that then allows for the deduction and what the risk score is based on?

Mr. Pierre Leblanc (Director General, Personal Income Tax Division, Tax Policy Branch, Department of Finance): Thank you for the question. There is a—

The Chair: We'll go with the question. The way we normally proceed is just to make a note of the question as we go through, Peter, and then come back to it. There's no limit on the amount of time for questions. People have to be satisfied on where we're going with each clause, but go to this question now.

Mr. Peter Julian: Thank you, Mr. Chair. We are dealing with the largest omnibus bill in Canadian history. I think it may be a better way to proceed if we can intervene. I appreciate your flexibility on that.

The Chair: All right. We'll see where we go and how much there is as we go along.

Go ahead, Pierre.

Mr. Pierre Leblanc: Thank you for the question.

Missions are assigned a risk score by the Department of National Defence. Up until 2017, those members of the Canadian Armed Forces and of the police who were on missions that had high and medium risk scores were able to have a deduction for the pay associated with those missions abroad.

The government announced that effective in tax year 2017 this deduction is available for all of those members of the Canadian Armed Forces and police on missions designated by the Minister of National Defence or his designate, regardless of the risk score.

This measure is basically ensuring completeness. It ensures completeness because some police are not on DND missions. They're on missions that are designated by the Minister of Public Safety and Emergency Preparedness. Those individuals aren't covered by the current legislation, either back to 2012, when a high risk score or medium risk score was required, or now that no risk score is required. It's making sure they're covered as well.

In other words, if police are on a police-only mission that's designated by the Minister of Public Safety and Emergency Preparedness, they'll also be eligible for the tax relief.

● (0900)

Mr. Peter Julian: If you don't mind a follow-up, Mr. Chair, then I don't understand why the risk score is defined in the legislation if what you're saying is that all operational missions would qualify, which I think is something that we would all support.

Mr. Pierre Leblanc: It's basically to ensure that the measure applies appropriately in a retroactive manner. If you look at this between 2012 and 2016, a risk score was required under the law for any sort of mission, whether it was a Canadian Armed Forces one or not. The legislation doesn't cover that in its current form for where the mission was designated by the Minister of Public Safety and Emergency Preparedness. It's just to provide assurance under the law that those missions are covered, both under the old regime, which required a certain risk score up to 2017, and from 2017 on, where the risk score isn't a factor.

The Chair: Thank you.

Go ahead, Mr. McGowan.

Mr. Trevor McGowan: Thank you, Mr. Chair.

I had started discussing artificial losses using equity-based financial instruments.

This measure relates to tightening up and improving upon gaps or uncertainties in the currently existing synthetic equity arrangement and security lending agreement rules that had been used by taxpayers to, in essence, create artificial losses by deducting the same expense twice, the same amount twice—primarily financial institutions.

These measures improve upon those rules in order to prevent inappropriate tax planning that can lead to the generation of artificial losses by financial institutions. Those are found in clauses 10 and 27 of the bill.

Mr. Peter Julian: If you don't mind, Mr. McGowan, if you could give the clauses first and then explain, I think that would be easier for us. That way, we can follow along in this massive tome, which is the largest omnibus legislation in Canadian history.

Mr. Trevor McGowan: Thank you for the comment.

The next measure is found in clauses 10 and 16 of the bill. It's a similar measure dealing with stop-loss rules on share repurchase transactions, and again it prevents financial institutions from generating artificial losses in off-market securities transactions that involve the repurchase of shares and the utilization of the inter-corporate dividend deduction as well as the market-to-market property rules to effectively deduct the same amount twice in situations where they're redeeming a fully hedged market-to-market property and generate artificial losses on those transactions. This would ensure that a double deduction is not available, although, of course, the single deduction would continue to be available to reflect the economic reality.

The next measure is found in clause 11 of the bill and it relates to eligibility for the Canada child benefit in respect of certain provincial kinship programs. It ensures that the receipt of amounts under these provincial kinship programs will not, in and of themselves, disqualify an otherwise eligible recipient from obtaining the Canada child benefit. It ensures that the benefit is available in appropriate circumstances, including where amounts are received under a kinship program by an individual in respect of the care of a child who is not the biological child of the individual. It corrects a potential technical interpretation that could arguably disqualify individuals from receiving the Canada child benefit in that situation and ensures that it's available where appropriate.

● (0905)

Mr. Greg Fergus (Hull—Aylmer, Lib.): I'm sorry, Mr. McGowan, can you just give me an example as to where this popped up as being a problem? Was this from Quebec? Was this from other provinces?

Mr. Trevor McGowan: I believe this issue was raised by the Canada Revenue Agency in its application of the program where it asked.... There is a rule that says you can be treated as a child of an individual in the tax act if that individual is, among other conditions, not the biological parent but you, the child, are wholly dependent on them. The question that was raised was whether a child can be considered to be wholly dependent upon an individual when the individual is receiving these amounts under these kinship programs for the care and maintenance of the child. An interpretive question arose about whether or not the child is wholly dependent in those circumstances. It was raised by the Canada Revenue Agency and the correct answer, of course, is that, yes, a child can still be considered to be wholly dependent upon the adult in the kinship programs, even if they're receiving amounts under these provincial programs.

Mr. Pierre Leblanc: There are a few provinces and territories that have these sorts of programs. In late 2017 the Government of P.E.I. introduced what it calls the grandparents and care providers program, basically to provide short-term living arrangements for children in need of protection. It was this program, among other programs, that triggered the sorts of questions that Trevor just answered for us.

Mr. Greg Fergus: Thank you.

The Chair: Is there anything else on the child benefit section?

Mr. Trevor McGowan: The next measure is found in clauses 12 and 35 to 38 of the bill. It relates to improving access to the new Canada workers benefit.

Budget 2018 announced the introduction of the Canada workers benefit, which replaces the former working income tax benefit. The first budget implementation bill of 2018 contained the introduction of the new CWB, as well as the enhancement of the program relative to the former working income tax benefit. It also announced that it would be available even in situations where an individual had not applied for it.

Previously, there was a requirement that to obtain the working income tax benefit, an eligible individual would have to apply for it by filling out schedule 6 on their tax returns. That, unfortunately, led to a lot of individuals who were qualified, who were eligible but just didn't know about the program and didn't fill out the correct form, simply not obtaining the tax credits to which they were entitled. This measure would ensure that even in situations where a qualifying individual does not apply for the Canada workers benefit, the Canada Revenue Agency would be able to assess the individual as qualifying for the benefit and provide it to them so that it's available for all Canadians who are eligible to receive it.

I'll just mention quickly, to fill out the clause numbering of the bill, that clauses 13, 18 and 19 contain measures relating to the mechanism of delivery for climate action incentive payments. My understanding is that those will be discussed by a separate committee, but I want to fill out those clause numbers so there are no gaps.

● (0910)

Mr. Francesco Sorbara: Can you repeat the clauses again please, Trevor?

Mr. Trevor McGowan: Those were clauses 13, 18 and 19 of the bill.

The Chair: Mr. McGowan, I don't want to bounce back, but we'll have to.

On the Canada child tax benefit one that you explained, which would be part 1(h) in our summary, in the more extensive document, on page 3, it says this amendment will be deemed to have come into force on January 1, 2008. Is that correct?

Mr. Trevor McGowan: That is correct.

It ensures the measure works appropriately and, as I said, this interpretive issue is dealt with appropriately going back 10 years, which aligns with the period for being able to retroactively go back and claim credits.

The Chair: As long as it's a plus, we don't mind.

Go ahead, please.

Mr. Trevor McGowan: The next measure is in clause 15 of the bill.

This measure builds upon a measure introduced in the first budget bill of this year, dealing with passive investment income earned by private corporations.

It ensures that in a very particular situation, where losses from a previous year are carried forward to offset taxes under part 4 of the Income Tax Act, which are fairly rare.... You usually don't use loss carried forward to offset part 4 taxes because they're refundable and you get them back when you pay dividends, but if you do and if the offsetting of the part 4 tax would have an impact on both your new ineligible refundable dividend tax-on-hand pool, as well as your more flexible and valuable eligible refundable dividend tax-on-hand pool, then this would ensure that the optimal result for taxpayers is achieved by first reducing the amount of the ineligible refundable dividend tax-on-hand account balance. It's the less favourable one for taxpayers before starting to touch the more favourable eligible account.

This clarifies some uncertainty in the application of the rules for a fairly limited number of circumstances, but it does provide the optimal result for taxpayers.

The next measure can be found in clauses 17 and 20 of the bill. It relates to charities and their political activities. The measure would allow charities to carry on political activities without regard to specific limits, provided those activities are ancillary to and incidental to the fulfillment of its charitable purposes.

The next measure is—

Mr. Greg Fergus: Mr. Chair, I'd like to read this through, please, before we move on.

Mr. Trevor McGowan: Charities and political activities were in clauses 17—that's the main clause—and clause 20 of the bill. Clause 20 is a consequential amendment.

The Chair: Mr. Deltell, go ahead, sir.

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you, Mr. Chair. I will speak in French because it's very technical.

[*Translation*]

First, I'd like to know if we're in fact talking about the part concerning charities and political activities?

Mr. Trevor McGowan: Yes, that's correct.

[*English*]

Mr. Gérard Deltell: Okay. I have some comments about that.

[*Translation*]

It's very hard to define what a partisan or non-partisan political activity is. First, what specific criteria does the government intend to use to define what constitutes a charity—we can understand what that is—that allocates 10% of its resources to non-partisan political activities.

How can you clearly define, first, the 10% rate and, second, the non-partisan political activity?

I can tell you from experience that it's impossible, but I can't wait to hear what you have to say.

● (0915)

Mr. Trevor McGowan: Thank you for your question.

[*English*]

As with you, the....

Sorry. Go ahead.

[*Translation*]

Mr. Blaine Langdon (Chief, Charities, Personal Income Tax Division, Tax Policy Branch, Department of Finance): May I answer you in English?

Mr. Gérard Deltell: Yes, of course.

[*English*]

Mr. Blaine Langdon: I just want to clarify what these amendments actually do.

Currently, the requirements of the Income Tax Act are that a charitable organization or foundation must spend at least 90% of their resources on charitable activities and can devote, by virtue of that, up to 10% of their resources towards political activities. What these amendments actually do is in fact remove that restriction and allow charities to spend as much as they would like on political activities, provided that they are in furtherance of their charitable purposes. I just want to make it clear that this is the effect of these amendments, so there will no longer be a 10% limitation placed on charities under the Income Tax Act.

In terms of the defining of what constitutes a charitable activity and a political activity, and in particular what constitutes non-partisan versus partisan, I think over the next couple months we'll be working with the CRA to provide some guidance for the sector and for professionals as to what exactly that means. There is pre-existing guidance on what constitutes a political activity and a non-partisan political activity. It will have to be revisited in light of these amendments, but that's our task for the next couple months.

The Chair: We'll have Mr. Deltell, and then we'll go to Mr. Julian and then Mr. Sorbara.

[*Translation*]

Mr. Gérard Deltell: Thank you, Mr. Chair.

If I correctly understand you, you're saying that we're going to adopt this but that we're going to rewrite the guidance to ensure that everyone agrees on the words; and from now until it's rewritten and the specific definition of non-partisan political activities is clearly established, the regulations will nevertheless apply, despite the lack of clarity with regard to non-partisan political activities.

[*English*]

Mr. Trevor McGowan: I would like to clarify one thing, again, by setting up precisely what this bill does. Currently there's a limit on how much political spending or activities a charity can do that the 10% limit.... It's actually expressed in the legislation as “all” or “substantially all” of your activities can't be political. The general rule of thumb for that is that it's commonly interpreted as 90% or 10%, so that's where that number comes from. You won't actually see 10% in the bill.

There is currently a prohibition, even within that rule, that allows for up to 10% of the activities of a charity to be political in nature. It says that those activities cannot be partisan in nature. That's a currently existing rule in the Income Tax Act and that's not going to be changed.

What is being changed is essentially the 10% limit. Previously you could spend up to 10% of your resources on what you might call political activities, but they couldn't be partisan political activities. Now that 10% limit is lifted, but the requirement that they be non-partisan is maintained and is currently found in the law, so that's not something new that's being introduced by this bill.

Mr. Gérard Deltell: I want to make a final comment on that. As far as I'm concerned, based on my particular experience, a non-partisan political activity does not exist. Every time you do something, you're partisan. I will give you one example.

For the last three years, I've had the privilege of being a member of Parliament. After three years, I know exactly which organizations are working, and as everybody knows, we can give publicity to some organizations. That year, a specific event had no publicity. They asked a member of Parliament—not me—to give some money from their budget. I was surprised. They said that because I was a Conservative, they didn't want my money. I said, “Hell, I'm not a Conservative. I'm your member of Parliament. This is your money. I want to help you.” They said to me, “No. You're a Tory. We don't want your money”. It was supposed to be a very friendly, harmonious activity, but for them it was a political event.

I can tell you, based on my experience—and I've been in politics for the last 10 years—it's impossible to describe whether a political activity is partisan or not.

● (0920)

The Chair: Mr. Julian.

Mr. Peter Julian: Thanks, Mr. Chair.

I appreciate the explanation, but I'm left a little bit perplexed because the actual wording in the budget bill is for a charity or for a sports amateur athletic association “that devotes any part of its resources to the direct or indirect support of, or opposition to, any political party”. That would seem to indicate that 0% of resources can be devoted to political activities, depending on how you define “indirect support of, or opposition”.

I'll give you a case. We have a pipeline going through my area. People are livid about it. There are a lot of environmental charities that are raising concerns. They're opposed to the pipeline for very legitimate reasons. The moment that they tie in the Liberal government or Mr. Trudeau to that, it would seem to me to pass that line of “indirect support of, or opposition, to any political party”.

It seems very unclear to me. I don't see this increasing the ability for political activities, but rather eliminating any possibility for political activities, depending on how “indirect support of, or opposition to, any political party” is defined. The devil's in the details here.

Mr. Blaine Langdon: I'll try to clarify the existing state of affairs and speak a bit more about the example that you've just raised.

Under the current rules and under charity law, there are two types of political activities. There's the non-partisan type of political activity, which would be the support or opposition to a change in law or government policy, or something like that. These amendments are effectively designed to create some space for this. We're removing the restriction. Currently, charities are restricted to only devoting up to 10% of their resources in opposition to, or support of, some policy proposal or change in law. The concern was that charities felt unduly restricted in being able to provide their expertise to members of Parliament on particular issues that were of importance to them. These amendments are designed to remove those restrictions and allow charities to have unlimited ability to carry on political activities in furtherance of their charitable purposes.

The other type of political activity, which is currently prohibited for charities—and will be prohibited under the new rules—is any activity that involves the direct or indirect support of, or opposition to, a candidate for public office or a political party. Those will remain prohibited. Using the example that you gave, an organization was established for the protection of the environment and it wanted to raise its concerns about the pipeline or some other environmental issue. Under these provisions, the charity would be allowed to do that and would no longer be constrained by the 10% limitation. To the extent that the charity went further and started to directly or indirectly support a candidate for public office or a political party on the basis of the same issue, that would be prohibited.

To get back to a previous question, I think the devil will be in the details, obviously. Over the next couple of months, we will be thinking about and working on trying to be clear about what constitutes a partisan activity and what constitutes direct or indirect support of a political party or candidate for public office. There's some existing guidance on that, but we'll be focusing on providing more comprehensive guidance for the sector with respect to that.

Mr. Peter Julian: Thank you.

How is “indirect support of, or opposition to, any political party” defined currently? I think we would all understand “direct”, but how broadly is “indirect” defined currently?

Mr. Blaine Langdon: I would say that currently there isn't comprehensive guidance on what that means. The CRA does have a document that speaks to issues like, obviously, financially supporting a political party or calling for—

● (0925)

Mr. Peter Julian: That's “direct” support, but “indirect” is where it's completely unclear. I think, if you asked all of us around the table, you would get 10 different definitions of what indirect support or opposition to a political party might mean. If CRA does have a clear definition of that available, it would be very helpful, I think, to this committee to get that current definition of indirect support, because this is written into the legislation. If it's unclear now where that line is, that concerns me, because once it is not clear, it could mean a reduction in the ability of charities to speak out on issues they care about, rather than an increase.

Mr. Blaine Langdon: What I would say is, again, this is a pre-existing provision, so we're not changing that restriction. We're not adding the word "indirect." This is a very good question and a very good point. These amendments follow the recommendations of the panel on political activities by charities that was commissioned by the Minister of National Revenue. One of the issues that they did identify was the lack of clarity around the concept of indirect support or opposition to a political party. We are definitely looking at that issue. We'll be happy to provide the existing guidance from the Canada Revenue Agency, but it's certainly something that we're looking to develop. We will be developing this, I think, in consultation with the charitable sector to provide some clarity around those rules.

Mr. Peter Julian: Is that something that you could provide to us this week, the CRA's existing definition of indirect support or opposition to?

Mr. Blaine Langdon: As I said, the guidance is relatively short, but I'll provide what they have.

Mr. Peter Julian: Thank you.

The Chair: Provide that through the clerk, Mr. Langdon, so that we'll get it immediately.

Mr. Sorbara.

Mr. Francesco Sorbara: This may have been clarified or maybe not. I'm not absolutely sure, but I do want to ask either way.

On page 13 of 19, when we're discussing charities and political activities, it says that, as a result of these changes, charities will be entitled to carry on political activities without regard to specific limits provided that those activities are ancillary and incidental to the fulfillment of its charitable purposes.

I read that and I think of a big hole. To me, that leaves a lot of leeway in how one would interpret that. If I was at CRA reading that, I would wonder how that would be fulfilled in the sense of how I was supposed to police it, if I can use that term, Trevor, Pierre and Blaine. How do I define it? How would I look at a charity? To me, that statement is so open-ended that it is contradictory the way I read it. You are saying that they they are entitled to carry on political activities without regard to specific limits, but the activity has to be ancillary and incidental to the fulfillment of its charitable purposes.

Is there anything quantitative around that or is there anything tangible that will provide direction to the individuals having to look at those charities?

Mr. Pierre Leblanc: I think a key principle that underpins the current legislation and that will remain true under the proposed legislation is that charities have to be constituted and operated for exclusively charitable purposes.

There are four main heads of charity: the advancement of education, the relief of poverty, the advancement of religion, and other types of activities that have been determined to be charitable by the courts. Those would include the environment, human rights, health. Any activities, any non-partisan, public-policy dialogue that is considered to be in furtherance of those charitable purposes would be considered. Those are the means, but as long as the end continues to be the furtherance of those charitable purposes, it will be permitted under the legislation, without limit.

It will be for the Canada Revenue Agency to determine specific cases, but by way of example, as we mentioned, one of the four heads of charity is relief of poverty. If an organization decides that most or pretty well all of its activities are based on the idea that changes in existing laws are the best way to achieve its stated charitable purpose, which is relief of poverty, and it's done in a non-partisan way that avoids both direct and indirect partisan activity, then that's permitted. The legislative proposals are intended to encompass, to allow, that activity.

● (0930)

Mr. Francesco Sorbara: Would a charity that is arguing for a better environment—we all advocate for a better environment—and does not like a certain source of energy, have no specific limits on what it could advocate for?

Mr. Blaine Langdon: I wouldn't want to predetermine how the CRA is going to interpret what an activity in furtherance of a charitable purpose is, but I would say that if an organization is advocating for a change in law or policy that has been determined to be in furtherance of a charitable purpose, yes, that could be their main or sole activity.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: I'd like to make a comment rather than ask the officials a question.

My colleagues around the table have raised several points.

I've personally worked with charities to make the act that was in force at the time a lot more flexible. The situation my Ontario colleague referred to is precisely the reason why we're at this point. We tried to make changes that would now be possible under this bill.

It's the environmental groups that wanted this. What will they do as charities when they advocate for a greener environment? They'll be campaigning on that very issue, but, at some point, they'll have to try to advance their cause and convince Canadians to adopt their position.

That's been interpreted as a political activity that exceeded the 10% limit. It was too restrictive. This is the reason they've gone after the present and previous governments. However, following the discussions and consultations of the group the minister established, they came to the conclusion they needed a lot more flexibility. It has to be acknowledged that some charities carry on activities that are political but non-partisan. There's a big difference.

The reason I raise this point is that I wanted to see whether you had made a real attempt to address the problem, and I think you have. Of course, there will be particular cases that exceed the limits. I have every hope the agency will restrict the activities of certain groups if need be.

As politicians, we will have an opportunity to review the matter. At some point, however, people have to promote their interests, if they're opposed to the death penalty, for example, and there's a way for people to do that without being considered partisan, even though it's political.

[*English*]

The Chair: Mr. McGowan, did you want to answer, or whoever?

I understand the intent of this section, which is to try to address the concerns of charities that were fearful their advocacy work was going to lose them their charitable status. Is that correct?

● (0935)

Mr. Trevor McGowan: That's right.

The Chair: Then these measures are being put in place to address that concern.

Mr. Trevor McGowan: That is correct. There was an issue with the existing 10% threshold. If a charity, in pursuing its charitable objectives for poverty, advancement of education or what have you, exceeded that 10% limit and was doing so in a non-partisan way, the prohibition against indirect or direct support of a specific political party or candidate was maintained from the currently existing rules. As we noted, these amendments generally follow the recommendations of the commission that had been studying and providing recommendations on charities. I say generally, because of course this bill maintains the rule against indirect support of a political candidate.

Yes, it allows for more flexibility and provides that the charities won't automatically lose their status if they are engaging in just a bit too much political activity.

The Chair: Mr. Julian, you wanted in?

[*Translation*]

Mr. Peter Julian: I want to respond to Mr. Fergus.

We're talking about two different things. We're talking about a change in the act, and we're not talking about the definition of partisan political involvement. Partisan politics is very easy to define. It involves the act of giving money to a political party or telling people who they should vote for. It's very clear.

Indirect support is actually much more vague and uncertain. There's an unknown quantity in the bill before us; it's the Canada Revenue Agency's definition, and that's what troubles me. The definition of an indirect partisan political activity is much broader than that of a direct political activity. If it were up to me to define what a "direct activity" is, I would be much more comfortable accepting this change, but the fact that we're giving the CRA the power to define that activity really troubles me.

People in my riding talk to me about many other issues, such as the fact that the CRA has redefined the disability tax credit and the child tax credit.

I'm troubled by the fact that we're leaving this definition in the CRA's hands. We should look at the current definition in the act. Under the bill before us, the CRA would be given the power to define what constitutes political involvement or indirect partisan political activity. That troubles me, and I wanted that to appear in the record.

[*English*]

The Chair: Larry, go ahead.

Mr. Larry Maguire (Brandon—Souris, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for coming this morning and for providing these overviews.

Mr. McGowan, I just heard you indicate, and I'm looking at the same section here, charities and political activities, and it more or less says that as a result of these changes charities will be entitled to carry on political activities without regard to specific limits. With regard to the 10% rule, you indicated just a moment ago that it's there, but it could be to allow some charities, I believe your quote was, “a bit too much political activity”. How we define that is my concern. I know there are rules, as my colleague indicated here a moment ago. How do you define that political activity? Is it the cost of airline tickets to get to Ottawa to lobby someone? How is it determined? Is it putting their view forward? That might be restrictive in some cases.

Rather than saying why don't we go to 20% and have a definitive number, as opposed to a bit more political activity, that doesn't seem very definitive to me.

● (0940)

Mr. Blaine Langdon: I think that when Trevor was referring to the concerns expressed by organizations—that they would lose their status if they carried on a bit too much political activity—he was describing the previous state of affairs. What the current amendments do with respect to non-partisan political activity—again, promoting or opposing a change in law or a change in policy, coming in to the House of Commons to meet with members of Parliament, etc.—is that it entirely removes those restrictions. There will no longer be a 10% limit. There won't be a bit more than 10%. It can be up to 100% of their activity—promoting a change in law—as long as it does not move into partisan support for or opposition to a political party or candidate for public office. I just want to be clear about that.

In terms of defining those activities, I think you're quite correct. If an organization was coming in to lobby a government official and was spending money in terms of a plane ticket and hotel costs, those would all be considered to be what's now defined as public policy development activities in the act.

Mr. Larry Maguire: I just have a follow-up. All of these.... It goes back to 2008, as the chairman pointed out earlier. Will organizations, charitable organizations, be able to go back the 10 years and re-examine what's already occurred?

Mr. Blaine Langdon: I think the intent of the provisions, or the retroactive nature of the provisions, is to provide some fairness to organizations that were audited and have been determined to be offside in terms of political activity rules so that they have the ability to benefit from this change in policy. That's the reason why it goes back to 2008. There are audit years that are under consideration going back that far.

In terms of organizations that are not necessarily subject to an audit by the Canada Revenue Agency, I think they would be able, if they so determine, to go back and review their activities for those years. Certainly, there wouldn't be any bar to that.

Mr. Larry Maguire: Thank you.

The Chair: Are we all done?

Ms. Rudd.

Ms. Kim Rudd (Northumberland—Peterborough South, Lib.): I just would like a quick clarification. Peter mentioned being uncomfortable with the CRA's being able to make the determination about what is and what isn't. However, the CRA does get to make those decisions now. That is within the scope. There's no real change here. It's always been able to make those decisions. Is that correct?

Mr. Blaine Langdon: Yes. There's no change to that portion of that rule. It is currently the case that the CRA is responsible for determining whether or not an organization provided direct or indirect support to a political party or a candidate for public office. This doesn't change that.

I would say that the CRA's general approach to an organization that is under audit is an education-first approach. It would generally advise the organization as to what activities are offside, and before it would proceed to anything harsher, it would give the organization an opportunity to correct any non-compliance.

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

Given the fact that this week we're dealing with the CRA's ripping away of benefits from a variety of Canadians and Canadian families who actually have the right to those benefits but don't have the resources to fight the CRA, I would disagree with any assertion that the CRA is being kind to regular folks.

Given the number, size and scope of court cases that have resulted from concerns around the charitable sector, I think it's fair to say that we should be worried about this. This is a change. It does leave a second part. I understand and I appreciate the testimonies that say that. We will need, I think, Mr. Chair, to grill the CRA on both its past history in terms of definition around indirect so-called partisan behaviour and how it intends to act with the changes in this budget bill. That may be something.... We're already stretched in terms of witnesses, Mr. Chair, but it seems to me that in order to clarify this, it would be good to have the CRA come forward to explain how it defines this and why there have been so many problems with regard to this definition.

● (0945)

The Chair: You'll have that opportunity if you so decide.

We'll hear your next point, Mr. McGowan.

Mr. Trevor McGowan: The next measure in the bill is found in clause 18. It relates to the reassessment period for non-resident and non-arm's-length persons. For this one, it might be helpful to add a bit more precision. It's found in subclauses 18(2), 18(4), 18(5), 18(7), 18(10) and 18(12). There is more than one measure in clause 18. That's because it deals with reassessment periods and there are a few different measures dealing with that. I just wanted to add a bit more precision there.

It deals with reassessment periods for non-resident and non-arm's-length persons. These you might think of as transfer pricing reassessments, where you have a transaction between a Canadian entity and a non-arm's-length non-resident and that gets reassessed. The current rules provide an additional three-year reassessment period in respect of these transactions. Another existing rule provides another additional three years where losses are carried back.

As I mentioned earlier in discussing part 4 taxes, losses in one year can be carried forward for up to 20 years and, germane to this point, could be carried back three years. If an assessment is made that affects the losses in a particular year, those losses are reduced, and if those losses had been carried back to a previous year, then the Canada Revenue Agency currently has the ability to reassess in that previous year, purely as consequential to the assessment within the normal reassessment period.

You have these two additional three-year reassessment periods. What this measure does is ensure that they interact appropriately, so that if a taxpayer is reassessed within the additional three years for transfer pricing—transactions with non-arm's-length non-residents, and had carried back that loss prior to the additional three-year reassessment period for transfer pricing, then the CRA would be able to make a consequential assessment relating to that reduction of a loss within the additional three years for transfer pricing. It ensures that the additional three-year period for non-arm's-length reassessment and for the assessment of a consequential assessment of a loss carried back apply consecutively instead of concurrently, but limited to those very specific circumstances.

The next measure—

The Chair: What problem are you trying to address in the one you just read on the reassessment of non-residents and non-arm's-length persons? What's the problem area?

Mr. Trevor McGowan: It's a little complex, but I think a simple example might help.

If you have a transaction with a non-arm's-length non-resident, the Canada Revenue Agency currently has an additional three-year reassessment period. They can go back a little further to reassess. Let's say that the taxpayer claimed a loss of $100 and that as a result of this reassessment within the previous period it was reduced to a $40 loss, so that $60 of the loss had been denied. That entire loss had been carried back three years, as is permitted, to offset income by the taxpayer in an earlier taxation year.

Normally, the rule would say, okay, if your loss is reduced in a particular year and you had carried that back up to three years, even if that previous year you've carried it back to is outside of your normal reassessment period, you have an additional three years. The problem was that if you had an assessment that was within the extended period for transfer pricing assessment—it was already within an additional three-year period—and you carried it back to before the start of that additional three-year period, then the CRA would be out of time, even though the clear policy in the act is that, if in a particular year your loss is reduced and that's carried back to offset income in a previous year, then the CRA should be able to go back to that previous year and make the appropriate adjustments.

● (0950)

The Chair: I understand what you're getting at.

Mr. Maguire had a question.

Mr. Larry Maguire: Thank you.

In regard to these other carry-backs, like the going back an additional three years, what is the normal reassessment period that they can go back? Is it seven?

Mr. Trevor McGowan: It depends on the type of corporation, but it's usually three or four years.

Mr. Larry Maguire: Okay, so this gives them another three plus three years, in some cases?

Mr. Trevor McGowan: That's right.

Again, it's limited only to the specific set. That's where it's been granted.

If you go back to an earlier year, that's only to deal with these loss carry-backs.

The Chair: Yes.

Mr. Trevor McGowan: It's not generally opening up that previous year.

The Chair: Thank you.

We'll go to the next point.

Mr. Trevor McGowan: The next measure is found in clause 18 of the bill. More particularly, it's found in subclauses 18(3), 18(6) and 18(11). It relates to another reassessment period in respect of foreign affiliates of a taxpayer. As we just discussed, there is an extended three-year reassessment period where a Canadian taxpayer gets reassessed in respect of a transaction with non-arm's-length non-residents. A lot of the times transactions with foreign affiliates would be caught in that, but not every transaction involving foreign affiliates is subject to this extended reassessment period. The measure would extend the reassessment period in respect of all transactions involving foreign affiliates of a taxpayer by three years in order to align it with the currently existing reassessment period for transactions with non-residents.

The next measure is found in clauses 22—

Mr. Peter Julian: I have a very quick question.

It extends it by three years to a total of...?

Mr. Trevor McGowan: Again, it depends on the type of corporation. If the normal reassessment period is three or four years, it would be six or seven years.

The next measure is found in clauses 22, 23 and 24 of the bill. It relates to reassessment periods and requirements for information and compliance orders. As we've discussed, the Canada Revenue Agency has a limited amount of time in which to provide a reassessment of a taxpayer. What this measure would do is essentially stop the clock on the computation of that period of time while a requirement for information or a compliance order is being contested. The stop-the-clock period would start at the point when the requirement or order is contested and finish when it's finally disposed of, so that the time spent in court with respect to these orders and requests does not reduce the amount of time that the Canada Revenue Agency has.

Mr. Francesco Sorbara: Trevor, I'm following along on both the document we were given here and also on the summary, from (a) to I think you're on (p) now. I didn't want to ask this individually for each one as there are a number of tax measures. Is there a cumulative tax expenditure outflow or inflow from all these changes as related to part 1? Is there something we're looking at that is material in terms of a change in a certain tax expenditure due to any of these enactments of these tax measures?

● (0955)

Mr. Trevor McGowan: Yes.

If you're asking for a table showing the impact on government revenues for each of these measures, it's found in the tax measures supplementary information that accompanied the budget on page 6.

Mr. Francesco Sorbara: Thank you.

Mr. Trevor McGowan: It sets out how much each measure is expected to either raise or cost the government.

Mr. Francesco Sorbara: Ironically, I have the thick book of the budget, but I don't have the thin book. It's back at my office.

Thank you for pointing that out.

Mr. Trevor McGowan: The next measure is found in clause 25 of the bill. It relates to the reporting requirements in respect of foreign affiliates.

Currently, taxpayers have until 15 months after the end of their taxation year to file what is called a T1134 form, which provides information in respect of their foreign affiliates. The general requirement to file a tax return is six months after the end of the taxation year.

This measure would reduce the amount of time to file the T1134 reporting form in respect of foreign affiliates from 15 months after the end of the taxation year to 10 months after the end of the taxation year. This provides the Canada Revenue Agency with additional time to provide needed analysis and risk assessments in respect of these types of transactions while balancing that with the needs of businesses to have enough time to prepare these forms.

There will be a transition period in which the deadline will be 12 months. That applies to taxation years that begin in 2020. Then, starting with taxation years that begin in 2021, it will go to 10 months.

The Chair: All right, next.

Mr. Trevor McGowan: The next measure is found in clauses 26, 28, and 29 to 33 of the bill. It relates to sharing information for certain criminal matters.

Currently, the government has obligations under its tax treaties and other international bilateral agreements to share information with its partners. What the income tax portion of this measure does is, first, to allow the provisions of the Mutual Legal Assistance in Criminal Matters Act to be used with respect to the sharing of criminal tax information under Canada's tax treaties, tax information exchange agreements, and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Where those would require Canada to provide tax-related criminal information to its treaty partners, the process for sharing information under the Mutual Legal Assistance in Criminal Matters Act would be used. That involves, first, the Department of Justice doing an analysis to make sure that the request for information from one of our partners is appropriate. It also involves going to court for an order to obtain the information, at which point the court would ensure that the request for information is both appropriate and also that the privacy rights, including those provided under the charter, are satisfied.

Then, after the information has been gathered, pursuant to the gathering order that would have to be obtained from the court, the Crown would have to go back to the court for a sending order so that it could be sent. At that point, the court would ensure that the terms of the gathering order had been followed, that the privacy rights had been respected and that it would be appropriate to send the information to Canada's partners. What it does is build a process using the Mutual Legal Assistance in Criminal Matters Act to provide information under these types of agreements.

The second of these measures permits the disclosure of taxpayer and other confidential tax information to Canada's bilateral mutual legal assistance partners, pursuant to administrative agreements entered into with a requesting state under the Mutual Legal Assistance in Criminal Matters Act. This is for the purposes of certain non-tax criminal investigations and prosecutions of certain serious crimes, like terrorism, organized crime, designated substances offences, and some proceeds of crime and money laundering offences relating to these designated offences. Again, it would provide an appropriate mechanism for the sharing of information with Canada's treaty partners.

● (1000)

The Chair: Okay.

We'll have Mr. Maguire and then Mr. Julian.

Mr. Larry Maguire: Thanks, Chair.

How many requests for this confidential tax information for the purposes of non-tax criminal investigations does CRA get in a year?

Mr. Trevor McGowan: I don't have that information with me. I would have to check and get back to you on that.

Mr. Larry Maguire: I just wondered what kind of volume we're looking at and the seriousness of it, but thank you.

The Chair: We heard something about this on our money laundering and terrorism financing act review, for sure, in terms of the need for sharing information.

Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I'm interested in a brief summary of how orders made under the Mutual Legal Assistance in Criminal Matters Act work currently with these changes that would be put into place. What is the current process?

Mr. Trevor McGowan: Currently, the Mutual Legal Assistance in Criminal Matters Act is used for other types of offences, but there is not, currently, an explicit process in place for providing this kind of information relating to criminal tax offences. This would introduce an explicit process, where one is not currently in place.

Mr. Peter Julian: Thank you.

Mr. Trevor McGowan: The last measure in part 1 of the bill can be found in clauses 34 and 40. It relates to the tax treatment of Quebec pension plan contributions. As is the case for contributions under the enhanced Canada pension plan, a deduction would be made available for the enhanced portion of contributions under the new Quebec pension plan.

The Chair: Okay. That goes through all the sections in your area. Is there anything to add, going back over the whole lot?

We have Mr. Sorbara, and then Mr. Julian.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

in the summary, part 1(h), it says “ensuring that social assistance payments under certain programs do not preclude individuals from receiving the Canada Child Benefit”.

I take it that because the Canada child benefit is so transformational, in my humble view, and is making such a big difference in the lives of the families in my riding, this measure would just mean that if individuals are receiving payments from a different program, or another program from a different level of government—say, the provincial government—they would not be precluded from receiving the CCB.

Mr. Pierre Leblanc: Yes. Under the Canada child benefit, there is a definition of what is a child. A child has to be wholly dependent on their parent or the person eligible to receive the Canada child benefit.

In relation to Mr. Fergus's question, you have, as an example, the P.E.I. grandparents and care providers program. When those people are stepping in and helping to care for a child who needs a secure home, they're receiving some financial assistance from the government. That raises the question of whether that child is wholly dependent on the caregiver in that case, because that's how the current legislation reads. This is just to ensure, in those cases, that the grandparent or other carer is eligible to receive the Canada child benefit with respect to that child.

Mr. Francesco Sorbara: It improves the flexibility of the overall program.

Thank you, Chair.

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you. I have two questions to wrap up, although I think we'll all keep open, Mr. Chair, the possibility of going back to these sections as we work through each one of them. Sometimes they are interrelated.

The first comes back to the working tax benefit and the ability that is granted to CRA to assess and grant the benefit. My understanding is that it is not an obligation. It would still be up to the CRA to choose to assess. It gives them a possibility, but there is no obligation for them to do that in the case of somebody who qualifies for the working tax benefit. Can you clarify that and perhaps direct us to the exact clause? We went over that section slowly, but I would appreciate being directed directly to it.

The other question is the one I asked on Tuesday night, which is about the total number of clauses and subclauses in the bill. I don't know if you've had time to look into that, but that would be appreciated as well.

Thank you, Mr. Chair.

● (1005)

Mr. Pierre Leblanc: I can answer the first question.

On the working income tax benefit, which will become the Canada workers benefit, the CRA will calculate it. If someone is eligible and CRA has determined they are eligible, and that individual has not claimed what will be the Canada workers benefit as of 2019 by filling out schedule 6, the Canada Revenue Agency will calculate the amount and will pay out the entitlement.

Mr. Peter Julian: Can you direct us to that clause?

I apologize, I should have asked this when you went over it.

The Chair: That's fine, Peter, no problem.

Mr. Trevor McGowan: If you look at subclause 12(4), the provision that creates a deemed overpayment of tax, you see that the Canada workers benefit is a refundable tax credit. The mechanism for providing refundable tax credits is that you have a deemed overpayment of tax. You're deemed to have paid too much tax. Once you've paid too much tax, the Canada Revenue Agency gives you a cheque, or pays you the amount of excess tax you're deemed to have paid. That's the mechanism for how these refundable credits work.

It provides that an eligible individual who files a return of income —so you have to have filed an eligible return of income and be otherwise eligible—is deemed to have paid at the end of the taxation year an amount equal to the total of...and then it's the amount for determining the amount of Canada workers benefit you get.

If you qualify, if you're an eligible individual and you filed your tax return, then you're deemed to have paid this extra tax and you just get the credit. There's no discretion built into it there. If you meet the conditions to apply, you're deemed to have overpaid tax and you're entitled to the credit.

Mr. Pierre Leblanc: Under the existing provision, there's a requirement deleted under the amendment that the individual has to claim the amount. By virtue of that being removed, in combination with what Trevor just described, the CRA can pay it out.

Mr. Peter Julian: Thank you.

On the other question of clauses and subclauses, how many are there? Do we know?

Mr. Trevor McGowan: There are 40 clauses in part 1 of the bill.

Mr. Peter Julian: Sorry, I was talking about the overall. I did raise it on Tuesday night.

If not, that's okay. I'll keep asking.

Thank you.

The Chair: It was raised in the House yesterday as well. Somebody might eventually have to come up with the answer to that question, Peter.

I think that completes that section. Thank you very much, gentlemen, for your presentation and your answers.

We will ask people to come up on part 2 and part 3. They might as well come up together. I understand some of them are on both. We'll have Mr. Ives, Mr. Mercille, Mr. Coulombe, and Mr. Mercille again.

Just while they are coming up, Mr. Ives is the Senior Adviser, Sales Tax Division. Mr. Mercille is the Director General, Sales Tax Division. Mr. Coulombe is Director, Sales Tax Division. That's them all.

Just before we go to the section, for our agenda on next Tuesday, November 6, we had the Minister of Finance scheduled on this bill from 4:30 p.m. to 5:30 p.m. He would be appreciative if we could deal with him from 3:30 p.m. to 4:30 p.m. on the budget implementation act, and then from 4:30 p.m. to 5:00 p.m. on estimates, because we're running out of time on the estimates. Is that okay?

The officials would be here for their hour in addition as well. At 3:30 p.m. to 4:30 p.m., on next Tuesday, November 6, it would be the minister on Bill C-86 and from 4:30 p.m. to 5 p.m. on the estimates, because we're running out of time on that. Then 5 p.m. to 6 p.m. would be officials from the department on the bill and the estimates on the bill.

Is everybody okay with that?

● (1010)

Mr. Larry Maguire: Just for clarity there's only half an hour for the estimates with the minister?

The Chair: Yes.

Mr. Larry Maguire: It's an hour for the bill, which is basically normal discussions anyway.

The Chair: Yes.

This changes it a little bit. We didn't have him in here on the estimates, and we really should take the opportunity to question the minister on the estimates. That's part of the problem. If we don't do it soon, we're not going to be able to do it. It will be automatically accepted under the rules.

Mr. Peter Julian: This actually extends his testimony from one hour to an hour and a half.

The Chair: Yes, but it on two separate things, and we will have to try to—

Mr. Peter Julian: There's a lot of latitude, Mr. Chair.

The Chair: There usually is.

Okay. It's agreed then.

Welcome, folks. You're doing part 2 and part 3.

We'll start with you, Mr. Mercille. Go ahead.

[*Translation*]

Mr. Pierre Mercille (Director General, GST Legislation, Sales Tax Division, Tax Policy Branch, Department of Finance): Good morning.

Part 2 of the bill would amend part IX of the Excise Tax Act to implement measures related to the goods and services tax and to the harmonized sales tax. The amendments begin in clause 41 and end at clause 60. The amendments under part 2 of the bill are essentially technical in nature. Generally speaking, they make minor improvements to the GST/HST rules to bring them into line with tax policy.

I'm going to describe the measures in the order in which they appear in the summary. However, the first measure, the purpose of which is to determine who is responsible for the tax payable on carbon emissions, has been referred to another committee. I'm going to name the clauses, but I won't outline the measures in detail. They are clauses 41, 44, 45, 48 and 53.

[*English*]

The first measure I'm going to describe is purely a timing rule, and it's found in clause 60.

The measure extends the assessment period for 60—

● (1015)

The Chair: Hold on one second. Are we all clear on where we are?

Yes. Go ahead, sorry.

Mr. Pierre Mercille: The measure extends the assessment period for group registered educational savings plan trusts that have made a particular relieving and retroactive election under proposed regulations under the Excise Tax Act.

Since the retroactive election would apply to the period from July 1, 2010, to July 22, 2016, the amendments ensure that the CRA is not statute-barred from assessing the past returns of the group RESP trusts that make the retroactive and relieving election. The amendments allow the CRA four years from when these amendments are made law to assess the GST/HST of these group RESP trusts, but only in respect of the tax consequences of the election.

The next measure deals with investment limited partnerships. I'm going to give you the clause numbers. They are clauses 41 to 43, 46, 49, and 54 to 59.

The measure ensures that the GST/HST treatment—

[*Translation*]

Mr. Peter Julian: Pardon me, but could you repeat those clause numbers?

[*English*]

Mr. Pierre Mercille: They are 41 to 43, 46, 49, and 54 to 59.

The measure ensures that the GST/HST treatment of investment limited partnerships is consistent with other collective investment vehicles by extending the special HST rules currently applicable to investment plans to investment limited partnerships.

Investment limited partnerships generally include limited partnerships established to carry on investment activities on behalf of a group of investors. There are essentially three amendments in that respect. The first amendment ensures that investment limited partnerships that have investors in one HST province and in at least one other province determine their HST liability based on where the investors are located, as is currently the case for investment plans.

These amendments also confirm the long-standing tax policy that management and administrative services are subject to GST/HST when these services are provided to an investment limited partnership by its general partner. Finally, these amendments generally provide a GST/HST relief to investment limited partnerships in respect of which 95% or more of the partnership interest is held by non-resident investors.

The next measure deals with the federal rebate for printed books and it's found at clause 47.

Under the GST, educational and literacy institutions are eligible for a rebate of the GST or the federal component of the HST paid on printed books acquired for their own use in helping people learn to read and improve literacy skills. In accordance with the policy intent, the amendment clarifies that the rebate does not apply to printed books that are acquired by these institutions to be sold on their own or sold as part of another property or service.

Mr. Greg Fergus: This is perhaps a silly question, but what happens if a group devoted to literacy sells their textbooks or their books that are used to promote literacy to their clients?

Mr. Pierre Mercille: If they sell the books for consideration, as opposed to giving them away, those sales are taxable and they're not supposed to claim the rebate in retrospect.

When an entity buys and supplies books, normally the process that applies is that they purchase the book, they pax the tax to their vendor and they claim the tax credits. They then sell the books to an individual, collect the tax from that individual and remit the tax to the CRA.

● (1020)

Mr. Greg Fergus: If students learning how to read pay a certain amount to an organization to teach them, and the fees they pay to be instructed how to read include the purchase of these books, then the organization would be able to claim the HST, or perhaps the GST and HST.

Mr. Pierre Mercille: I'm going to clarify something on your last point. Both rebates that I'm talking about here are purely for the GST, or the federal component of the HST.

In the case you describe, the entity would not be allowed to claim the book rebate. Usually, when there's a supply of a course and a supply of a book, the books are supplied separately from the course. The intention from the policy side, since the inception of this rebate, was always that if the books are to be sold for consideration, the book rebate is basically not applicable.

Mr. Greg Fergus: I got that. I guess I'm asking what happens if the cost of the book is covered in the fees somebody pays for the course.

Mr. Pierre Mercille: Yes, and I am telling you that the entity providing that course will not be able to claim the rebate in respect of those books.

The Chair: Are you satisfied?

Mr. Greg Fergus: The answer is clear but I'm not satisfied.

The Chair: You're satisfied with the answer but you don't agree with it. Sounds good. That's normal around this town.

Go ahead.

Mr. Pierre Mercille: The next measure deals with the reassessment period in the case of requirements for information and compliance orders. This is found in clauses 50 and 51.

The measure introduced a new rule to extend the assessment period of a person by the period of time during which a requirement for information or a compliance order is contested.

Mr. McGowan explained that to you earlier in respect of part 1 of the bill. This measure is similar to the measure included in part 1 of the bill in respect of the Income Tax Act, and the amendments to the GST legislation are made to ensure consistency between the various tax statutes. I'm going to mention right now that a similar amendment is made in part 3 of the bill in respect of the various excise tax statutes.

Mr. Greg Fergus: Sorry. Taking notes on my previous question, I didn't find out which clauses it applies to. Can you please repeat that?

The Chair: The rebate for printed books is 47, and the reassessment period is 50 and 51.

Mr. Julian.

[*Translation*]

Mr. Peter Julian: Can you give us a few moments to look at the clause numbers and references when you cite them? This is a complex topic.

Mr. Pierre Mercille: I'll do my best.

Mr. Peter Julian: I know you have a clear understanding of all these matters. However, we need a little time to examine this document and therefore would appreciate you allowing us a little time so we can follow you more closely.

[*English*]

Mr. Pierre Mercille: The next amendment is clause 52.

Again, this measure is consequential to the amendment to the Income Tax Act in part 1 of the bill. Similar to the amendments in part 1 of the bill that Mr. McGowan explained to you earlier, the measure removes a restriction in part 9 of the Excise Tax Act to enable the sharing of tax information with Canada's mutual legal assistance partners in respect of acts that, if committed in Canada, would constitute serious crimes.

[*Translation*]

Mr. Peter Julian: I have a question on that point.

How many countries have signed bilateral agreements with Canada or are affected by the Mutual Legal Assistance in Criminal Matters Act?

● (1025)

Mr. Pierre Mercille: I'm not sure I can answer you immediately, but we can get you that information later.

[*English*]

The Chair: Okay. Go ahead.

Mr. Pierre Mercille: As part of clause 52, there are two other amendments, and they are proposed to align the GST/HST legislation with the existing rules under the Income Tax Act.

First, the measure removes a similar restriction in part 9 of the Excise Tax Act to enable tax information to be disclosed to Canadian police officers in respect of serious offences where such disclosure is currently permitted under the Income Tax Act. Second, the measure removes a similar restriction in part 9 of the Excise Tax Act to enable tax information to be disclosed solely for the purpose of a provision contained in a tax treaty and, again, where such disclosure is currently permitted in respect of taxpayer information under the Income Tax Act.

I'm going to mention here that similar amendments are also included in part 3 of the bill in respect of the Excise Act, 2001, and this, again, is to ensure consistency among similar rules across various tax statutes.

[*Translation*]

That concludes my description of the amendments proposed under part 2 of the bill.

[*English*]

The Chair: On that last one, has there been any discussion with the Privacy Commissioner on any of this sharing of information?

Mr. Pierre Mercille: There was discussion in respect of the main amendment to the Income Tax Act, the MLACMA, the Mutual Legal Assistance in Criminal Matters Act.

I'm not sure about the last two I mentioned, because they're just essentially aligning with amendments to the Income Tax Act, and I don't know when those were made in the Income Tax Act and whether the consultation happened.

The Chair: Thank you.

Mr. Maguire.

Mr. Larry Maguire: Thank you, Mr. Chair.

You were talking about the mutual legal assistance partners. I'm assuming you were talking about countries. How many are there?

Mr. Pierre Mercille: This is a similar question to what Mr. Julian asked, so I think we can come back to the committee with that response.

Mr. Larry Maguire: Thank you.

The Chair: We now turn to part 3, and what you didn't cover.

Mr. Coulombe.

[*Translation*]

Mr. Gervais Coulombe (Director, Sales Tax Division, Tax Policy Branch, Department of Finance): Thank you, Mr. Chair.

I'm here today to talk to you about the proposed measures on the taxation of fuels and cannabis. These measures are outlined in part 3 of the bill, which covers clauses 61 to 68 in the document you have before you.

[*English*]

The first measure is found under clause 61 of the bill, and it relates to fuel taxation. It is proposed that the excise tax refund in respect of diesel fuel used to generate electricity be expanded. The proposed measure was first announced as part of a broader consultation on tax legislative proposals in July 2018.

The Government of Canada applies an excise tax of 4¢ per litre on diesel fuel manufactured in or imported into Canada. The application of the excise tax on diesel fuel is relieved in specific circumstances, including for use in the generation of electricity. At present, only licensed manufacturers and licensed wholesalers can buy and sell excise-tax-exempt diesel fuel. Alternatively, end-users can claim a refund from the Canada Revenue Agency under eligible purchases from other vendors. However, these situations may create cash flow issues from some end-users and put other vendors at a competitive disadvantage vis-à-vis licensed wholesalers and licensed manufacturers.

To level the playing field among all vendors, this measure amends the Excise Tax Act to expand the refund regime to allow a vendor to apply for a refund where a purchaser would use excise-tax-paid diesel fuel to generate electricity if certain conditions are met. These conditions include, among others, that the quantity of diesel fuel delivered by the vendor to the purchaser be at least 1,000 litres and that the purchaser certify that the diesel fuel is to be used exclusively to generate electricity. This measure comes into force upon royal assent to the enabling legislation.

● (1030)

The Chair: Are there any questions on that?

Does this mainly apply up north, or is it all over? Where diesel is used to generate electricity up north, does it apply there, or...?

Mr. Gervais Coulombe: This is broader than just the north. You have all the municipalities, hospitals and farmers who have backup generators. That measure, actually, was a request from the industry, from the western provinces where you have a lot of big generators that are....

The Chair: They use them for electricity generation. Okay. Thank you.

Mr. Poilievre.

Hon. Pierre Poilievre (Carleton, CPC): Is this a relieving measure?

Mr. Gervais Coulombe: It facilitates the obtentions of tax-free diesel fuel for those who have small generators to generate electricity. In that sense, it's a relieving measure. That said, it does not have a fiscal impact, since there was another relief available for end-users, but they have to obtain the diesel fuel with the tax embedded first before claiming a refund.

As a result, you're facilitating the distribution of tax-free fuel for the purpose of generating electricity, as currently provided under the law.

Hon. Pierre Poilievre: They'll get the rebate even if the fuel was not taxed in the first place, with the proposed legislation.

Mr. Gervais Coulombe: With the proposed legislation, the vendor would be able to claim the rebate, and it is expected that they will sell the fuel on a tax-out basis to the end purchaser, rather than having the end purchaser obtaining the diesel fuel tax-in and having to claim the rebate to the CRA. It facilitates the....

Hon. Pierre Poilievre: It's just the point at which the rebate is secured, rather than a change in the eligibility of the rebate.

Mr. Gervais Coulombe: That's correct.

The Chair: Okay.

Larry.

Mr. Larry Maguire: Just to follow up on that then, it's more like the retailer's paying the tax than the end-user, or am I reversed?

Mr. Gervais Coulombe: I'm sorry. I missed the beginning of the question.

Mr. Larry Maguire: Is it the bulk retailer, the distributor of the fuel who's now paying the tax? Under the new act, under these changes, will it be the retailer as opposed to the end-user, or do I have it reversed?

Mr. Gervais Coulombe: The original payment of the tax remains at the production or the wholesale level, as under the Excise Tax Act.

This is the ability to claim the refund that is being shifted to some vendors who are not licensed with the CRA. Those vendors, because they are not licensed, were not able before to claim a refund for a tax on the diesel fuel used to generate electricity; only the end-users were able to do so. With the proposed measure in that bill, those vendors who are not licensed would be able to claim the refund, and as such, be on a level playing field with their competitors, who are licensed wholesalers. It's quite technical in nature.

Mr. Larry Maguire: Yes, and there's no change, then, for licensed vendors.

Mr. Gervais Coulombe: For licensed vendors there are no changes. They are still able to claim their refund and sell the diesel fuel without the tax being embedded.

Mr. Larry Maguire: Is this for small users, small generators, or is it used by some of the industries as well?

Mr. Gervais Coulombe: There is a threshold that has been put in the legislation, the 1,000-litre threshold, so we're talking about relatively—

Mr. Larry Maguire: Small generators....

Mr. Gervais Coulombe: Small, yes, but....

● (1035)

Mr. Larry Maguire: We're talking about small but necessary generators.

Mr. Gervais Coulombe: Yes.

The Chair: We could use a few of those in the odd storm, Larry.

Mr. Larry Maguire: Thank you.

That's right.

The Chair: Okay, I guess cannabis is next.

Sorry. I missed Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): I have a quick question. I just want to know how the figure of 1,000 litres was arrived at.

Mr. Gervais Coulombe: We consulted Canadians and industry on the thresholds. We needed a threshold to ensure there was no avoidance or unintended diversions of diesel to taxable purposes, so that's how the threshold was arrived at, with consultations with industry.

The Chair: We are on the next section. Let's see if we can get through part 3.

Mr. Gervais Coulombe: The second measure is found under clauses 63, 67 and 68 of the bill, and relates to the taxation of cannabis.

Let me tell you up front that, in respect of clauses 67 and 68, these are housekeeping amendments required for two provisions of the excise taxation framework for cannabis in order to ensure consistency between the English and the French versions of the legislation. The main measure is found under clause 63.

The Chair: Go ahead.

[*Translation*]

Mr. Gervais Coulombe: The government has undertaken to authorize regulated and restricted access to cannabis to keep that substance out of the hands of young people and to deprive criminals of the profits that derive from the cannabis trade. To do so, it will have to keep duties at low levels and cooperate with the provinces and territories in pursuing a coordinated taxation approach.

Statutory amendments to the Excise Tax Act, 2001, associated with the new federal excise duty framework, were implemented by Budget Implementation Act, 2018, No. 1.

The federal government subsequently signed agreements with most provincial and territorial governments to implement a coordinated taxation framework for cannabis. Regulations outlining the additional excise duty rates for each provincial and territorial signatory to the coordinated framework were announced on September 17, 2018.

The entire framework came into force on October 17, 2018, on which date non-medical cannabis became available for legal retail sale. Currently, cannabis products are generally subject to a combined federal-provincial tax that is not to exceed the higher of $1 per gram or an *ad valorem* rate of 10% of the producer’s selling price.

[*English*]

Clause 63 of part 3 implements amendments to the Excise Act, 2001, to introduce an anti-avoidance rule relating to the rules for establishing the value of a cannabis product on which the *ad valorem* duty is calculated to ensure that the cannabis duties are calculated on the appropriate value in certain circumstances.

In particular, this technical amendment would ensure that the *ad valorem* duty applies as intended on the producer's set price of the cannabis product or on the fair market value of the product in the case of a non-arm's-length transaction. To align with the announcement of the regulations, this measure is deemed to have come into force on September 17, 2018.

The Chair: Thank you.

We'll go to a question, but the bells are ringing. We are 29 minutes away. Are we okay to continue on until seven or eight minutes before the final bell?

An hon. member: Agreed.

The Chair: Are there any questions to Mr. Coulombe on this section?

Greg.

[*Translation*]

Mr. Greg Fergus: I would like to know why the date on which these amendments are to come into force is September 17 and not October 17.

Mr. Pierre Mercille: That's because September 17 is the date on which the amendment was announced.

Mr. Greg Fergus: I see. Thank you.

[*English*]

The Chair: Peter Julian.

● (1040)

[*Translation*]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I think I know the answer to the question I'm going to ask you, but I'll ask it anyway. Has the excise tax on medical cannabis in removed?

As you know, this question has been raised by 200,000 Canadians. The error was made in the budget, but these amounts have not yet been refunded. Many members have received incalculable numbers of petitions emphasizing that medications are not taxed. I don't believe there is any indication anywhere that this excise tax has been removed. I suppose that means it will be maintained after the bill passes.

Mr. Gervais Coulombe: With respect to cannabis, the excise duties that were included in the Excise Act, 2001 by last June's budget bill are not amended by this bill. Cannabis products with THC concentrations of less than 0.3% are still exempt from cannabis duties. However, the regime that was announced in the preceding months has undergone no changes in that respect.

Mr. Peter Julian: So that means medical cannabis is still subject to the excise tax.

Mr. Gervais Coulombe: The excise tax that applies to medical and non-medical cannabis is currently the same. Some products are exempted, such as industrial hemp and products that have THC concentrations of less than 0.3 % and few associated psychoactive effects.

Mr. Peter Julian: I want a direct answer, and I apologize for going back to this.

This means that cannabis that has higher THC concentrations but is prescribed by a physician, and is therefore medical cannabis, is still subject to the excise tax. Is that it, yes or no?

Mr. Gervais Coulombe: Once again, you have to look at the type of cannabis prescribed and its THC concentrations. If a product is subject to the excise tax regime, duties are payable. Remember that the system applies to cannabis production. So it's the producers who are responsible for paying those duties.

Mr. Peter Julian: So the answer is yes. Thank you.

[*English*]

The Chair: The policy decision, though, that's not up to the officials to answer.

Do you have the facts that you needed?

Mr. Peter Julian: Yes. Thank you.

The Chair: Thank you.

Are there no other questions on the cannabis section here?

The next point is the assessment period.

[*Translation*]

Mr. Gervais Coulombe: Mr. Chair, my colleagues Mr. Mercille and Mr. McGowan have already discussed the measures concerning the extension of the assessment period.

Those measures are outlined in part 3. The measure concerning disclosure of information appears in clause 66. As my colleague Mr. Mercille explained, the purpose of these amendments is to ensure that the administrative measures contained in the tax laws are consistent. That vastly facilitates overall administration of the regime by the Canada Revenue Agency.

That completes my presentation on part 3.

[*English*]

The Chair: Are there any general questions left over from parts 2 and 3?

Mr. Poilievre.

Hon. Pierre Poilievre: In part 3, are there any changes to the applicability of HST with respect to carbon allowances?

Mr. Gervais Coulombe: This is not found under part 3. This is an amendment that is found under part 2. I understand that it has been decided that this amendment be studied in front of the environmental committee.

● (1045)

Hon. Pierre Poilievre: There is no need.... Let's just do a “belt and suspenders” and study it here too. Would this change? Would this amendment apply HST to carbon allowance purchases?

Mr. Pierre Mercille: I can respond directly or I can do my little presentation on that measure, if you prefer.

Hon. Pierre Poilievre: Sure.

The Chair: I think it has been transferred to the environmental committee. We'll let them deal with it. When it comes back to us, we may have to deal with it.

Hon. Pierre Poilievre: Can we get an answer to the question?

The Chair: We can get an answer to this question. Then we'll leave the rest to the environmental committee.

Mr. Pierre Mercille: The tax on the sale of a carbon emission allowance is not changed by this measure. The measure only changes who is responsible for accounting for the tax. It used to be the vendor who collected the tax from the purchaser to remit to the CRA. Now it will be the purchaser who will be responsible for self-assessing the tax and remitting it to the CRA if there's a need for that.

I want to add here, to clarify, that the purchasers of those carbon emission allowances are usually businesses involved in commercial activity, and they would be entitled to recover the tax through the input tax credit mechanism.

Hon. Pierre Poilievre: Is it normal for a purchaser to remit a sales tax? Usually it's the seller who does that.

Mr. Pierre Mercille: Yes, usually it's the seller, but there are situations in cases of certain sales of real property where it's the purchaser who has to self-assess.

Hon. Pierre Poilievre: This change affects the application of HST to provincial carbon credit programs, correct?

Mr. Pierre Mercille: It changes which person has to remit the tax —

Hon. Pierre Poilievre: I understand that. Is it for provincial cap and trade programs?

Mr. Pierre Mercille: It's for every system of emission allowance that is basically created by a government entity. Yes, it would apply to the sale currently applied on, let's say, the cap and trade system in Quebec.

Hon. Pierre Poilievre: Does it apply also to the federal carbon tax?

Mr. Pierre Mercille: The federal system—I may be wrong, but I think the issuance of those allowances will only occur in 2020, or something like that. At that time, yes, it would apply.

The Chair: Pierre, we are going to leave the rest to the environmental committee.

Mr. McLeod.

Mr. Michael McLeod: Mr. Chair, I have to ask—

Hon. Pierre Poilievre: Mr. Chair, this does have applicability to the budget bill. I don't see why we wouldn't be able to ask about this.

The Chair: It does, but we've agreed by motion to turn certain sections over to the other committee. They will come back to us with or without recommendations. At that time we'll be in a position to debate it.

Hon. Pierre Poilievre: It's not to debate it, but to question it.

Who are we going to be able to question on that, at that time?

The Chair: We will see what the other committees do.

Mr. Julian.

Mr. Peter Julian: Mr. Chair—

Hon. Pierre Poilievre: This is going to become a big problem if you don't allow some questioning on major sections of the budget during the finance committee.

The Chair: Mr. Julian.

Hon. Pierre Poilievre: I have a point of order, Mr. Chair.

● (1050)

The Chair: Let's hear it.

Hon. Pierre Poilievre: The budget is primarily the responsibility of the finance committee. In particular, taxation matters are the purview of the finance committee.

If you'd frankly allowed me to ask three or four questions, you probably could have dealt with this a lot more quickly, but you're going to have to face the problem now.

There are some very serious financial questions around the application of sales tax to the overall carbon tax. They are financial in nature. There would be no harm done if you were to allow members of this committee to ask some of those questions of the officials while they are here. Absent that, I don't know how we can proceed with a study of the rest of the bill, because frankly, we would be excluding from our conversation elements of fiscal and taxation policy that are clearly the purview of the finance committee.

There's nothing that would preclude the environment committee from asking similar questions, or even the same ones. That's why I said “belt and suspenders”. I don't think there's any Canadian out there who's going to be concerned that we overstudy the matter.

You can pull up any motion you want. The reality is that we have the right to ask these financial questions in the finance committee. Failure to allow that inhibits my ability to do my job in scrutinizing this massive omnibus bill that is before this committee and other committees.

The Chair: We're not inhibiting your ability to scrutinize this. What we have done, by motion, is to move certain sections of this bill to other committees, asking them to look at various sections.

A lot of this has been turned over to the Standing Committee on Environment and Sustainable Development. They are to report back to us on recommendations or lack thereof. At that point in time, we will deal with what they report back to us.

There's ample time for us to further study the bill and raise those questions at that time.

Hon. Pierre Poilievre: With whom?

The Chair: If we require some of these witnesses back when they report to us, then we can call back all the officials on all these sections.

Hon. Pierre Poilievre: Who is “we”?

The Chair: This committee.

Hon. Pierre Poilievre: Right, the majority of which is Liberal and will vote against having those witnesses back.

The Chair: No, I don't think you—

Hon. Pierre Poilievre: We have the witnesses here right now. Why can't I ask the questions?

The Chair: It's because we're not going to get into two committees doing the same thing.

The reason the committee decided, in its wisdom, to farm out some of these sections was to do a better job and put it to the appropriate committee. I understand what you're saying on tax measures. If it's necessary to bring witnesses back, we'll do that at that time when they have done their work and we've seen the evidence that these very same individuals have put before that committee.

Hon. Pierre Poilievre: My point still stands. As you admit, this is a taxation issue. A taxation issue typically would fall before the finance committee. We have the officials here right now. Why would we call them back to do another round of testimony when they could simply answer the question here now? In fact, they would have answered the question here and now if you had allowed the question to be posed.

The Chair: It's because we've already farmed this out to other committees based on the motion of the committee.

I'm going to leave it at that—

Hon. Pierre Poilievre: No, it's—

The Chair: If you want to challenge the chair and my ruling, that's fine.

Hon. Pierre Poilievre: Sir, I have a point of order.

The Chair: Okay.

Hon. Pierre Poilievre: My point was not finished.

The Chair: Let's hear it.

Hon. Pierre Poilievre: This is the finance committee. Finance studies taxation. This is a taxation measure. I am asking questions about taxation. That is my job. I am the finance critic for Her Majesty's loyal opposition. It is my job to scrutinize tax policy. It is the job of this committee to do exactly the same.

This is a matter of taxation. We have officials from finance who are responsible for this taxation matter before us. I'm asking questions. They are questions that might be uncomfortable for the government, but they need answering before Parliament gives approval for this bill. There is no reason why you could not allow two or three minutes for me to get answers to those questions. It would not seriously inhibit the work of this committee in any way, shape or form. In fact, it would be much more efficient to do that than to call the officials back on a separate occasion, which you claim is a possibility if we don't get the answers today.

My questions are not about the recommendations the environment committee produces. You're right that the environment committee's recommendations may come back before us. I'm not interested in their recommendations with respect to this particular matter. I'm interested in answers about the effect of this legislation and others on the taxpayer. You are preventing me from asking those questions. That is preventing me from doing my job as a member of Parliament.

The Chair: I don't want to get into an argument, Mr. Poilievre.

Hon. Pierre Poilievre: I'm not asking you to. I'm making my point of order.

The Chair: I've heard your point of order. I'm ruling against it. This is not what these witnesses came here prepared to talk about today.

Hon. Pierre Poilievre: It is, in fact. The gentleman said he had his —

The Chair: I'm not going to argue with you. I am ruling you out of order, and that's it.

Hon. Pierre Poilievre: I have another point of order, Mr. Chair.

The Chair: Mr. McLeod.

Hon. Pierre Poilievre: Mr. Chair, I raise a point of order.

● (1055)

The Chair: Let's hear your point of order. If it's similar to the same point of order, I'm ruling it out of order.

Hon. Pierre Poilievre: I have no doubt that you don't want questions asked about this because they're very inconvenient for your government. That is why—

The Chair: You are out of order.

Mr. McLeod.

Hon. Pierre Poilievre: I'm sorry, you are out of order, Mr. Chair.

The Chair: You are out of order.

Mr. McLeod.

Hon. Pierre Poilievre: Mr. Chair, I have another point of order.

The Chair: Mr. McLeod.

Hon. Pierre Poilievre: Mr. Chair, you are out of order. You are failing to allow me to ask my question.

I have a point of order, Mr. Chair.

An hon. member: Point of order, Mr. Chair....

Mr. Michael McLeod: My question is on part 2—

Hon. Pierre Poilievre: I have a point of order, Mr. Chair.

Mr. Michael McLeod: If I could go back to part 2, on assessment compliance—

An hon. member: Point of order, Mr. Chair....

Mr. Michael McLeod: I wanted to know if any part of that section would have an impact on the northern residents deduction—

Hon. Pierre Poilievre: I have a point of order, Mr. Chair.

The Chair: Is it a new point of order, or is it not?

Hon. Pierre Poilievre: It is.

The Chair: Mr. McLeod, please hold on.

Let's hear your new point of order.

Hon. Pierre Poilievre: The witness has indicated that he has answers. At present he is prepared to answer the questions that I am posing with regard to the HST application to the carbon tax. Given that he has those answers, he is prepared to provide them, as he has said before this committee. He is the one who said he has documents here, with which he can answer these questions. I am simply asking that he be allowed to do that and that he be allowed to answer my questions.

The Chair: I am saying we do not want to get into a situation. At a previous meeting, this committee decided to farm out certain sections of Bill C-86 to other committees. We need them to do their work first, and they will report back to us. If we go down this road where we are doing the work before they have an opportunity to do it, we may as well not have farmed it out in the first place. It will be duplication.

We made a motion as a committee to farm those sections out to them. Mr. Mercille may be prepared to answer this question, but the next witness who comes before us on another section might not be. When we have farmed it out to another committee, we've given them time to report back so that we can look at the recommendations and deal with it then.

That's how I'm ruling. Pierre, I just think that's fair.

Hon. Pierre Poilievre: I have to say that in general, Mr. Chair, you have been fair. You are a member of Parliament with integrity. On this point, we are dealing with a matter of taxation. All I'm saying is that on a matter of taxation I be allowed to ask two or three questions in order to get clarification.

I understand that you believe that some other sections should be studied by the environment committee. I don't have a problem with the environment committee doing that.

The Chair: Okay: Can we save some time here? I'll let Mr. Maguire in—

Hon. Pierre Poilievre: Fine.

The Chair: —and I believe Mr. Julian wants in on this point of order, and then Mr. Fergus. Then we'll see where we go.

Mr. Maguire.

Mr. Larry Maguire: Thank you.

I'm not a regular member of the committee, Mr. Chair. It just seems to me that if we're dealing with taxation issues and we have witnesses here today who can provide the answers, it's a bit reversed. I would say that the answers to these questions should go to the environment committee before we worry about the recommendations of the environment committee coming back to the taxation committee, which is basically what this committee is. It's the finance committee of the House of Commons.

I would think there certainly would be much more clarity for future or other committees to have answers to these questions so that they could deal with them at that point. It would be more information for them that might be duplicated, particularly when we have witnesses here.

You've indicated that on Tuesday, I believe, the minister is coming.

The Chair: Yes.

Mr. Larry Maguire: Therefore, it may be information that would be relevant to ask the minister or his officials at that time. That limits us in our amount of time, given that this is the last committee meeting this week.

The Chair: Mr. Julian.

Mr. Peter Julian: Mr. Chair, I disagree with Mr. Poilievre on a lot of things. I certainly disagree with him on carbon pricing. I do say, however, that I agree with him on being able to ask questions of ministerial officials. The motion that the committee adopted by a majority vote does not exclude our asking questions of the Department of Finance officials. If it had ever been framed as such, I think it would have been very difficult to pass that motion.

You're right to say, Mr. Chair, that there is some work that is going to other committees. They will not tackle it from the tax and fiscal perspective.

I don't think anybody is abusing this process. It's true that we're dealing with the largest omnibus legislation in Canadian history and the timelines are ridiculous—

● (1100)

The Chair: I've never heard that before.

Mr. Peter Julian: —but at the same time, I don't think anybody is abusing the process. We're trying to get the work done despite a framework that is ridiculous.

The Chair: Okay—

Mr. Peter Julian: To be able to ask questions in just a straightforward way I think saves us time, in the end. Otherwise, we'll be doing a lot of procedural wrangling and that serves nobody's interests.

The Chair: Okay. I hear you.

Mr. Fergus.

Mr. Greg Fergus: Thank you very much, Mr. Chair.

First of all, let me just say to the members who are new to the committee that this committee has had a wonderful reputation as not being very partisan or getting caught up in procedural issues. It's very rare that this would happen.

Second, the motion did pass, Mr. Julian. Forgive me if my memory's wrong, but it wasn't on division. It was actually unanimous. This was the procedural motion to make sure that we would farm out relevant items of the budget implementation act, Bill C-86. As a result, we're just going back on our word about what we had all agreed to do.

We will have an opportunity to come back. We can't say that this is a belt-and-suspenders thing and then call it an omnibus bill at the same time, or say that it's a taxation bill. We need to have some.... We'll have an opportunity to go back.

The Chair: Okay.

I would prefer that we go the other way, but if the questions relate just to tax matters, then I'm willing to take them. Keep them short and to the point and we'll move on. I do not want to get into a situation where witnesses come before this committee and there are questions raised that should be dealt with by another committee, because we did farm that out. I'll try to be fair here, but we want the questions to stick to the fiscal or financial issues related to this.

Go ahead. Raise your question.

Hon. Pierre Poilievre: Thank you, Mr. Chair. I want to say that I have found you to be a very—

The Chair: Oh, sorry, I forgot about the votes.

Hon. Pierre Poilievre: Do you want me to come back to that? I know we're five minutes from the vote now.

The Chair: How many votes are there? Is it one?

We'll suspend and come back after the votes.

● (1100)

(Pause)

● (1120)

The Chair: We will reconvene.

Mr. Poilievre has the floor. Then we will go to Mr. McLeod.

Hon. Pierre Poilievre: Thank you, Mr. Chair. I appreciate your good work. I wanted to say thank you very much for giving me the opportunity to ask these questions. I have found you to be very fair in your role as chair.

I will go to the questions.

You said that the HST applies to allowances of carbon emissions that exist in provincial jurisdictions where there's a cap and trade system. Does the HST apply then to the cost of the federal carbon tax in backstop jurisdictions?

Mr. Pierre Mercille: I don't want to restart a debate here, but the amendment in part 2 is about carbon allowance. There's no amendment in part 2 about carbon pricing in general.

I can talk to you about the application of GST/HST on carbon allowance such as under the cap and trade system, if that's what you want.

Hon. Pierre Poilievre: It's a very simple question. Does the HST apply to the federal price on carbon in backstop jurisdictions?

Mr. Pierre Mercille: The GST/HST is a broad-based tax that applies to a broad base of properties and services. Essentially, fuel is subject to the GST/HST.

Hon. Pierre Poilievre: Your department has released a table estimating the cost of the carbon tax to the average family. Does that include the HST?

Mr. Pierre Mercille: I'm not prepared to talk about that because it's not my file.

Hon. Pierre Poilievre: All right.

Mr. Chair, when are we going to get a chance to ask those questions?

The Chair: I expect the witnesses who will be before the other committee will be able to answer those questions, but once we see what they do, if we feel we need to bring those witnesses before this committee to relate to those kinds of questions, we can do it.

Hon. Pierre Poilievre: Okay. Back to the carbon allowances, the HST does apply to those allowances.

Mr. Pierre Mercille: The GST/HST is a multi-stage tax that applies to every stage when there's a supply, a sale, in the distribution process.

Those emission allowances would be subject to HST.

Hon. Pierre Poilievre: They are.

Mr. Pierre Mercille: But as I mentioned, when they are sold between two businesses, the businesses who purchase them are usually businesses that pollute. They are involved in commercial activity whether it's mining, oil and gas, or whatever. These entities are usually considered exclusive in commercial activity, and they can recover the GST/HST they pay on the cost of those allowances through the input tax credit mechanism.

Hon. Pierre Poilievre: Anybody can do that with any product. That's not the question. The question is whether or not the tax does apply to the allowance at any point from production to final purchase.

Mr. Pierre Mercille: Yes, but an allowance is an input to a large business. The large businesses involved in commercial activity are allowed to claim all the tax they pay on their inputs because they are going to charge tax on their final products when they are sold to a consumer.

Hon. Pierre Poilievre: Then the question is very simply after the rebates of GST/HST are taken into consideration, is GST/HST applied to the carbon allowance, yes or no?

● (1125)

Mr. Pierre Mercille: The amendment in part 2 of the bill—

Hon. Pierre Poilievre: I know what the amendment is, and if I could finish, it is absolutely fair for us to ask you about the general application of the rules so we might understand the amendments. This is a yes or no question. Either it does apply or it doesn't apply. It can't be neither and it can't be both.

The Chair: Mr. Mercille may not be in a position today to answer that question, but coming back from the other committee he may be.

Go ahead, Mr. Mercille, the floor is yours.

Mr. Pierre Mercille: I don't think I can answer by yes or no because in your question you mentioned the word “rebate”. I have not mentioned the word “rebate”.

What the amendment does is that, when a purchaser of an emission allowance from another person acquires that emission allowance, they will have to self-assess the GST/HST on the value of that allowance. When they are doing their return, they are going to do their self-assessment, and then they are going to look at the use of that allowance. That allowance will likely be used in the course of their commercial activity and entitle them to an ITC of the value of the tax they would have self-assessed. At the end, they will remit nothing.

Hon. Pierre Poilievre: We admit the allowance costs money.

Mr. Pierre Mercille: There's a price. There's a market for it.

Hon. Pierre Poilievre: That's fair. Does the HST, at the end of the day, apply on top of that price?

Mr. Pierre Mercille: What the amendment does—

Hon. Pierre Poilievre: I'm not asking about the amendment.

Mr. Pierre Mercille: I'm here to describe what is in the bill, so....

Hon. Pierre Poilievre: Yes, but in order for us to understand what's in the bill, we have to understand what the rules are. We need to understand what you're amending before we can understand the amendment itself, and I'm simply asking, does the HST apply on the price of the allowance, yes or no?

Mr. Pierre Mercille: The HST applies, but the purchaser will be allowed, generally, to claim an offsetting input tax credit.

Hon. Pierre Poilievre: Right, and after that offsetting input tax credit is taken into effect, will there at any stage, or by any person or entity, be HST on the allowance, yes or no? What is the net effect?

The Chair: You're not going to tie Mr. Mercille to a yes or no answer. He has—

Hon. Pierre Poilievre: Either it does or it doesn't. This is not one of those situations where it could be a maybe.

The Chair: Yes, but I think he explained it out.

Mr. Mercille.

Mr. Pierre Mercille: The emissions allowance is like any other input for a business. When a business is involved exclusively in commercial activity, when it acquires something for whatever product it produces, it is entitled to claim ITC in respect of the tax it paid on the input it used in the course of its commercial activity.

Hon. Pierre Poilievre: Putting aside that entity, will any entity pay HST on the allowance, yes or no?

Mr. Pierre Mercille: According to the amendment, the only person who will pay the HST is the purchaser, and they will generally be entitled to an offsetting input tax credit.

The Chair: Okay, thank you. You gave that answer several times. We've gone down this road.

We will hear back. The environment committee has to report back to us today by 4 p.m. on whether they're going to study this or they're going to leave it totally with us. They then will report back to us after they've looked at it, if they agree to do it, on November 13. We will have time between November 13 and 15 if we have to deal further with this issue.

Mr. McLeod.

Mr. Michael McLeod: Yes, Mr. Chairman, I'm not sure if anybody heard my question while I was asking it because of all the interruptions.

The Chair: No, we didn't. It was rather noisy in here. I was at fault as much as anybody else. Go ahead.

Mr. Michael McLeod: But we also had a response from the witnesses. I'm satisfied that the question might be better posed under the section with income tax rather than this one. I'll ask that question during clause-by-clause.

The Chair: Okay.

I believe Mr. Maguire wanted in on parts 2 and 3.

Mr. Larry Maguire: This is just a schematics thing, Mr. Chair. You mentioned that we'd get the report back from the other committee on November 13 and have to deal with it by November 15.

● (1130)

The Chair: Yes.

Mr. Larry Maguire: But we don't sit that week. Is that...?

The Chair: Wait just a minute. Are those the right dates? That's for the amendments.

Mr. Larry Maguire: Yes, so we're in a constituency week that week. I don't know if that makes a difference or not.

The Chair: That's when they have to report their amendments back to us. We meet the next week for clause-by-clause on November 20.

Are there any further questions, then, for these witnesses?

Thank you, gentlemen.

Sorry. Go ahead, Mr. Boulerice.

[*Translation*]

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you, Mr. Chair.

Thank you, gentlemen.

The purpose of my question is to understand how the measure concerning the excise tax on diesel fuel purchased to generate electricity works.

What impact do you think that measure will have and what are the arguments that validate and explain this amendment?

Mr. Gervais Coulombe: As I previously said, the measure establishes an excise tax refund regime for purchased fuels under which a vendor may apply for a refund where a purchaser will use excise tax-paid diesel fuel to generate electricity.

To date, only licensed distributors and producers could apply for a refund when they sold diesel to a final consumer. Unlicensed vendors did not have access to this mechanism and therefore were required to sell diesel fuel to final consumers with the tax included, even if the diesel was to be used to generate electricity, an activity generally excluded from the taxation regime.

If certain conditions are met, this measure therefore permits unlicensed vendors to apply for their own refunds so the final consumer can have access to diesel fuel without the excise tax being included.

This is a technical measure to ensure a degree of fairness among fuel distributors in Canada.

Mr. Alexandre Boulerice: That's perfect.

May I ask another question?

[*English*]

The Chair: Thank you.

[*Translation*]

Mr. Alexandre Boulerice: Do I have time to ask another question?

[*English*]

The Chair: Yes, you do.

[*Translation*]

Mr. Alexandre Boulerice: All right, thank you.

I'd like an explanation concerning the sale of books to be used to promote literacy. There appears to be a difference in the way the sales tax is applied, depending whether the books are to be used to begin learning or to combat illiteracy. If the sale of books is simply intended for the general public, will the tax apply?

In actual fact, in practical terms, how can you verify, in the real world, with an organization combating illiteracy, to whom the book was sold and for what purpose?

Mr. Pierre Mercille: The refund is an existing one; it's a refund of the GST or of the federal component of the HST. The act lists a number of entities that are entitled to the refund, which is a 100% refund of the federal component of the tax paid in the circumstances described in the act. That refund applies to an entity, such as a school, that purchases books for its own needs, not when it purchases books that it can resell.

The amendment merely further clarifies the fact that, for the refund to be available, ownership of the good must not be transferred to another person for consideration. Consequently, this is not a new refund, but rather an existing refund.

Mr. Alexandre Boulerice: Thank you.

[*English*]

The Chair: I know the NDP has switched members midstream, but it was answered quite extensively and can be found in the blues. We spent a considerable amount of time when Peter Julian was here on this, but I'll let you ask for clarification if you need it.

● (1135)

[*Translation*]

Mr. Alexandre Boulerice: Thank you, but I'm satisfied with the answer.

I apologize for repeating the question.

[*English*]

The Chair: Okay.

Thank you, gentlemen, for parts 2 and 3. We'll ask on part 4, division 1, for Mr. Scott Winter and Diane Kelloway to come up. Welcome.

Ms. Kim Rudd: Mr. Chair, as we only have 10 minutes left is there any intention or suggestion of extending the time because of the vote? I'm not sure 10 minutes will be reasonable.

The Chair: We would have to have the complete agreement of the committee. Let's see where we end up. The people we've asked to come, I think, are here through to the end of division 5. It would be nice if we could finish that much, but you will have to think about it. I know people have other commitments. We'll check where we're at at 11:45. If it will only take a few more minutes to finish up a division, we might be able to do it.

Larry.

Mr. Larry Maguire: Mr. Chair, I know from canvassing my colleagues that we all have commitments at noon.

The Chair: All right. We might be able to go two minutes over, though, if it will finish a division.

Mr. Larry Maguire: Sure.

The Chair: On part 4, division 1 and customs tariffs simplification, go ahead, Mr. Winter or Ms. Kelloway.

Mr. Scott Winter (Director, Trade and Tariff Policy, International Trade Policy Division, Department of Finance): Thank you, Mr. Chair. Recognizing the time constraints, I'll give a brief overview so we can move quickly to questions.

This measure, which is covered in clauses 69 to 126 of the bill, includes several structural simplifications and other technical amendments to the customs tariffs with a view to easing administrative burden and red tape, and reducing compliance costs for both importers and the Canada Border Services Agency, the CBSA.

This measure was announced in budget 2018 and it constitutes the government's response to the Auditor General's recommendation in the spring 2017 audit of customs duties to review and simplify Canada's tariff regime.

There are effectively three primary groupings of amendments contained in the bill, the most substantive of which are contained in clauses 121 to 123 and consist of the elimination of several redundant tariff items in order to facilitate classification and administration for importers and the CBSA. As a result of these amendments, the measure reduces the overall number of tariff items in the schedule by just over 6%, significantly reducing the scope for misclassification by importers or government.

The second category of changes includes several amendments to clarify the policy intent of certain provisions such as tariff descriptions in order to improve administrative predictability.

Finally, the third grouping of amendments is primarily of a housekeeping nature. This would include amendments such as a renumbering of tariff items to reflect past changes, as well as amendments to English and French descriptions to address language discrepancies.

The measure does not affect rates of duty for goods imported into Canada. As a result, it has no fiscal impact or impact on ongoing or future trade negotiations. The measure would take effect on January 1, 2019.

The Chair: Are there any questions?

Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you very much.

Could you explain a little further the point about redundant tariff items? What made them redundant and how does the change improve things from an efficiency perspective?

Mr. Scott Winter: At the global level for customs classification, goods are listed at a six-digit subheading level. Individual countries have the ability to further subdivide those into eight-digit items to serve their own economic policy objectives or, for example, as a result of trade negotiations.

Since 2009, successive Canadian governments have undertaken a proactive tariff policy whereby we have been undertaking significant amounts of unilateral tariff elimination, such as elimination of tariffs on imported machinery and equipment, production input and agri-food processing input.

What has happened as a result of those tariff reductions is that the six-digit parent item is duty free. We may have had a variety of eight-digit items with variable duty rates and these have all each become duty free as well, so it's no longer necessary to have that level of specificity in law. What we've done is effectively roll up those items to the six-digit level.

Again, as I said, the benefit of that is for importers. It will reduce the scope for misclassification and the need to file for corrections, and it will also result in less need for enforcement resources by the CBSA.

● (1140)

Mr. Peter Fragiskatos: Thank you.

The Chair: All done...? Okay.

Thank you very much.

We'll turn to part 4, division 2 and the Canada pension plan, with Ms. Giordano from ESDC.

The floor is yours, Ms. Giordano.

Ms. Marianna Giordano (Director, Canada Pension Plan Policy and Legislation, Income Security and Social Development Branch, Department of Employment and Social Development): Good day. I'll keep this brief.

Division 2 provides for a minor technical amendment to the Canada pension plan that in certain cases will modify the calculation of the child-rearing drop-in. The child-rearing drop-in was introduced in BIA 1 and will be implemented in January 2019. This provision will increase the enhanced portion of the CPP for parents who stop working or reduce their participation in the workforce to take care of a child under the age of seven.

The proposed technical amendment will allow for the pro-ration of the drop-in amount in rare cases when the drop-in does not apply to a full year. This would be the case when a person's contributory period begins or ends during a year in which the drop-in is applied: for example, where an individual reaches 18 in a year that the drop-in would be applied, or where an individual dies, begins his retirement pension or reaches the age of 70 in a year in which a drop-in applies.

I am happy to answer any questions you may have on this.

The Chair: Okay.

Think about it for a moment, folks. Are there any questions? It's pretty straightforward.

Go ahead, Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Ms. Giordano, please, in which clauses of the bill can we find this technical amendment? What clauses does it involve?

[*English*]

Ms. Marianna Giordano: This is clauses 127 to 129.

[*Translation*]

Mr. Greg Fergus: Good, thank you.

[*English*]

The Chair: Thank you very much.

Mr. Maguire has a question.

Mr. Larry Maguire: I was just looking at it, Mr. Chair, and I'm wondering if there's an explanation with regard to the modified calculation of that amount to be attributed in terms of the first or second additional contributory periods.

You gave an explanation on these years: that you either turn 18, turn 70 or pass away.

Ms. Marianna Giordano: The contributory period for the CPP starts at age 18 and it ends when you pass away, when you reach age 70 or when you start your retirement pension. These are the years. If you have a child under age seven in those years, we need to pro-rate your contributory period and also the amount of the drop-in that we put in, to reflect the period.

Mr. Larry Maguire: Thank you.

The Chair: Thank you very much, Ms. Giordano.

We can probably do division 4. I know that division 3 is going to take some time because there are several subdivisions to it. It might only take a few minutes to deal with division 4.

Part 4, division 4 folks, please come ahead: Ms. Hemmings, Mr. Beaupré and Ms. Davidson. This will save you folks from having to come back. I think division 3 will take quite a while.

We'll do this one and then adjourn. This is on the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

Go ahead.

● (1145)

Ms. Lynn Hemmings (Acting Director General, Financial Systems Division, Financial Sector Policy Branch, Department of Finance): Thank you, Mr. Chair.

The Proceeds of Crime (Money Laundering) and Terrorist Financing Act is administered by the Canada Border Services Agency, CBSA. It requires persons or entities to report to customs authorities, during importation or exportation, currency of a monetary value of $10,000 or more.

The CBSA border agents have the ability to conduct searches when there are reasonable grounds to suspect that a person or entity is carrying unreported currency or when they suspect that there are proceeds of crime or funds for terrorism financing. Those funds may be seized or forfeited by customs authorities.

Clause 174 of Bill C-86 essentially repeals a section in the act that gives persons and entities the ability to withdraw that export or import of the currency. Essentially, under the Customs Act, the right to withdraw does not exist for the declaration of goods, so this provision aligns it with the Customs Act.

The Chair: All right. Are there any questions on this area? It relates to some of the work that we've been doing on money laundering, for sure.

With that, thank you very much.

Ms. Kim Rudd: Sorry, Mr. Chair. Could we have the clauses that this applies to?

The Chair: Yes.

Ms. Lynn Hemmings: It applies to clauses 174 and 175.

Ms. Kim Rudd: Thank you.

The Chair: Thank you very much. My apologies to those who are here for part 4, division 3. We'll have to start with you on the day we reconvene.

Thank you very much to all.

The meeting is adjourned.