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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order. This is the 75th meeting of the Standing Committee on Finance. Our orders of the day, pursuant to Standing Order 108(2), are to continue our study of tax incentives for charitable donations.

I want to thank our four witnesses for joining us for this panel discussion today.

First of all, from the Canadian Bar Association, we have Mr. Peter Broder, the chair of the charities and not-for-profit law section. Welcome.

From Carleton University, we have associate professor and research associate in the School of Public Policy and Administration, Mr. Calum Carmichael.

From GIV3, we have the chairman, Mr. John Hallward. Welcome to the committee.

Our fourth organization is Philanthropic Foundations Canada. We have Mr. J. Alexander Houston, chair.

You have about five minutes for an opening presentation to the committee, and then we'll have questions from members.

We'll start with Mr. Broder and proceed down the line.

Mr. Peter Broder (Chair, Charities and Not-for-Profit Law Section, Canadian Bar Association): Thank you, Mr. Chair and honourable members. Good afternoon.

My name is Peter Broder, and I am chair of the Canadian Bar Association's national charities and not-for-profit law section. On behalf of the CBA I want to thank you for the invitation to appear before the committee today to discuss our submission on tax incentives for charitable donations and to answer any of your questions. We hope to be of assistance.

The CBA is a national association that represents 37,000 lawyers, judges, notaries, law professors, and law students from across Canada. The CBA's primary objectives include improvement in the law and in the administration of justice.

The CBA's submission, which you have received, was prepared by members of the national charities and not-for-profit law section. The members of our section both advise on donation matters and deal with the broader regulatory framework to which groups with whom we work are subject.

In that context, while supporting the need for additional tax measures to encourage donations, we would urge the committee to consider the importance of fostering donations within a balanced and equitable regulatory system. For new and existing private contributions to be leveraged to the maximum extent possible, it is key that resources not be diverted to meeting unnecessarily onerous regulatory requirements. In this regard, the section endorses the technical changes proposed by our colleagues in the wills and estates section and referenced in our brief. These changes will clarify and simplify the law with respect to certain donations arising from wills or made pursuant to the terms of a trust.

We also support revisiting several overly broad measures put in place in recent years that have led to needlessly complex regulation. As an example, we would point to the constraints put on certain inter-charity transfers when the receipted revenue disbursement quota was removed. We believe that these measures are unduly restrictive and could preclude certain transfers between charities without there being a sound public policy basis for doing so.

While we acknowledge the policy interest in avoiding inter-charity transfers that are intended to circumvent annual spending obligations imposed on all charities, in our view the legislation also potentially captures numerous legitimate transactions. Specifically, as currently worded the provision might be applicable to the transfer of an endowment from one charity to another or to a decision by a charity to set aside funds to create an internal endowment. Though the Canada Revenue Agency has the discretion to permit these types of transfers, the result effectively is uncertainty rather than facilitation of bona fide transactions. Such rules curtail the efficiency with which charities can operate, and this means that resources, whether existing or new, triggered by donation incentives can't be put to their best use.

Other examples of excessive regulation and possible improvements are cited in our brief.

More generally, we urge narrowing of income tax provisions so they are limited to achieving clearly articulated and well-defined tax policy objectives to free funds now devoted to coping with red tape to be used directly on charitable work.

Turning to the question of specific donation incentives, in 2009 the charities and not-for-profit law section of the Canadian Bar Association endorsed the stretch credit put forward by Imagine Canada, and we reiterate our support for that proposal today. We see this as an innovative measure that has the potential to grow the donor pool in a way that has not been accomplished by other changes made in this area over the past decade or so. Targeted at all donors who increase their giving, the stretch would see the federal credit available to individual tax filers boosted by approximately 10% on new donations.

We also believe there is merit in other measures that have been proposed, such as more favourable treatment of gifts of real estate or private stock, which are likely to increase overall donations by diversifying the tax-incentivized vehicles available for giving.

In our view, however, the stubborn pattern of stagnation in the percentage of tax filers claiming credits for donations represents a significant problem and a long-term threat that needs to be creatively addressed. Absent a major enhancement to the generosity of the deductions or credits, the stretch credit proposal seems most likely to change this dynamic.

On behalf of the CBA, thank you again for the opportunity to appear before the committee today. We commend all of you for your efforts with respect to this extremely worthwhile initiative, and are happy to answer any questions you may have.

Thank you.

• (1535)

The Chair: Thank you very much, Mr. Broder.

We'll now hear from Mr. Carmichael, please.

Professor Calum Carmichael (Associate Professor, Research Associate, School of Public Policy and Administration, Carleton Centre for Community Innovation, Carleton University): Thank you very much, Mr. Chair.

Let me thank the members of the committee for their patience, their attention, and their conscientiousness in this hearing. I'm delighted to appear before you.

Let me indicate that I am a research associate at the Carleton Centre for Community Innovation, but I don't speak for the centre. I'm also on faculty at the School of Public Policy and Administration, but as well I don't speak for the school. What I do speak for is someone who, for the past few years, has looked at the international treatment of charitable contributions, primarily among OECD countries but also including some developing countries. So my interests are how Canada situates itself among other countries that similarly provide forms of tax incentives for charitable contributions.

Let me say, first of all, although I might change the presentation of my brief that I prepared six months ago, the content really represents my ideas, and those ideas still are based on the sense that the Government of Canada has the responsibility to allocate tax revenues to purposes that best serve the needs of its citizens. This responsibility extends to the revenues that the government foregoes in providing tax incentives, whether by credits or deductions on charitable contributions.

Now, the organizations that receive those contributions are diverse in terms of the purposes they pursue, the activities they perform, and the populations they serve. The government should consider this diversity when deciding where its foregone tax dollars should go. And it should differentiate the tax incentives to provide a higher credit or deduction for contributions to organizations that attend to the most pressing needs. Indeed, as I suggest, different countries provide examples of how this could be done.

My brief summarizes an example of such an initiative. I call it a "charity+" program, that would provide a higher credit, say, 40%, for a capped quantity of contributions to organizations that address the basic needs—housing, food, and health—of persons in low income. This would be similar to what exists in France. It would be similar to what a number of American states have introduced—Arizona, Michigan. It would parallel as well certain aspects of the way Portugal will encourage charitable contributions. So there are a range of countries that provide precedence for this.

But such a program, I suggest, could enable the government to direct more of its foregone revenues to an area of ongoing human, social, and economic need. I suggest it would surpass a stretch tax credit in achieving the very goals for which the latter has been promoted, and I itemize those on the last page of my brief.

Although my comments are not directed to criticize the stretch tax credit but rather to endorse the notion of a differentiation of the charitable sector, nevertheless, I think to support the stretch tax credit would be a missed opportunity if the goal is to engage Canadians and create an ongoing incentive to affiliate with the charitable sector.

Thank you.

The Chair: Thank you very much for your presentation.

We'll hear from Mr. Hallward, please.

Mr. John Hallward (Chairman, Hallmont Foundation, GIV3): Thank you, Mr. Chairman.

My name is John Hallward, and my day job is president of global innovation for a division of Ipsos.

I want to start with a personal story that kind of summarizes what I'm here for and the other function that I represent.

This started back when I was 21 years old, when my granny sent me some money. The note said "Happy birthday. Here's some money, and it's not for you. Your goal is to pick five charities, give away the money to those five charities, and write a report back to your grandparents." They did this for all 24 grandchildren. This was their way of training, teaching, and introducing all their grandchildren to the responsibility and the role of giving.

That brings me to today. I learned my lesson well at the age of 21. More recently, I started a foundation and a concept called GIV3, which is the proposal for today. To summarize it best as possible, it's ParticipAction for giving.

You've heard about the tax stretch credits and granting of private equities in real estate. Ours is a different idea; it's a complement. It's a program that would work with those initiatives, but in particular it's to promote and encourage all Canadians to be more philanthropic, to teach them and to start by leadership, etc.

If you take a look at the differences in giving in Canada, we already have differences by provinces, by social demographic classes, and by those who are religious or less religious. We have these differences despite all having the same tax system. Our belief, then, is that it's not just the tax policy that changes or influences what people give.

If you take a look at reasons why we're observing in Canada some declining trends in philanthropy, there are many causes: a little bit of a move away from religiosity, a little bit more movement to the self-centred "me, me, me", and different values of different generations of Canadians. If you look at all those causes, it begs to consider more than one solution.

As I said, if we all have the same tax system yet certain communities give far more than others, then it can't be just the tax system.

In addition to any other considerations of tax policy changes—and we support all of them because they're all a step in the right direction—we propose the idea of creating a program, an umbrella program, to help promote philanthropy, just as ParticipAction is an umbrella program for the promotion of health and exercise in Canada.

So that's the concept of GIV3. We propose one group, one business unit, one brand, one budget, and one steering committee, like ParticipAction, because it's easier to coordinate partnerships and working with others, whereas having a bunch of different organizations trying to partner together has problems of who owns the intellectual property, different budgets, different mission statements, different boards, etc. Like ParticipAction, it's one working with many to accomplish an umbrella benefit of public health. We want to do the same for philanthropy in Canada.

Our proposal or request is for \$5 million a year, with declining amounts over time, to allow us to start, to act as start-up in partnership with the government, to then allow us to move towards and solidify our support from corporations and foundations.

Corporations and foundations are very risk-averse. They want to know that GIV3 is viable, well founded, well funded, and long term. Once they see that, they've been very supportive and encouraging. I mean, a rising tide floats all ships: the more we give, the more all of our communities benefit, the more it allows the government to focus its energy on other things, such as job creation.

We do want to partner with all three sectors, but we need to start. That's why we've come to the government, to help start that ball rolling, asking for \$5 million and then to wean down as we go, over time.

We believe the \$5 million is a very small investment. We're talking about a \$1 billion payoff—if you look at the numbers—if you can get Canadians back to where they were six or seven years ago. We're down \$2 billion in private citizens' donations just in the last five or six years. So we're talking about a \$2-billion return on a very small amount of money invested.

We like to see GIV3 almost as a conduit of communication, in addition to tax stretch credits and other things. We need to have those mentors, leaders, teachers, etc., like my grandmother was to

me. We need to be bringing this out, talking about it in public, reminding Canadians of their responsibilities, and allowing them to immerse themselves in their communities to help.

That's what we're all about. We hope you agree. We hope to have a partnership so that we can work together and start the ball rolling.

• (1540)

Thank you.

• (1545)

The Chair: Thank you very much, Mr. Hallward.

We'll hear from Mr. Houston now, please.

Mr. J. Alexander Houston (Chair, Philanthropic Foundations Canada): Thank you very much.

Honourable chair, honourable members, my name is Sandy Houston. I am the chair of Philanthropic Foundations Canada. I'm delighted to have this opportunity to speak with you this afternoon.

PFC represents Canadian charitable foundations and grant-makers across the country. Collectively our members have about \$7.5 billion in charitable assets, and in 2010 distributed about \$307 million into communities across the country in support of all types of charitable activities.

In the brief we filed with you in January of this year, we made two recommendations to enhance the access of Canadian charities to money that will enable them to grow and increase their effectiveness. Neither of these recommendations is about tax incentives for charitable giving. While we certainly think tax incentives are important, we also think there are other routes to encourage the provision of more capital into the charitable sector, notably through loans and social investments.

We support the recommendation made by Imagine Canada for the stretch tax credit to increase new giving. We also support the recommendation that the government examine the possibility of extending the capital gains tax exemption to such assets as private securities and land.

But we know that many Canadian charities draw more heavily on their own revenue-generating activities than they do on charitable donations, and we believe, as does the Task Force on Social Finance, that social finance offers an unprecedented opportunity for Canada's charities to open up new sources of financing at a time when they're under a great deal of stress and when their funding ties them into very short timeframes and inhibits their ability to innovate, expand, and sustain themselves.

Therefore, our fundamental recommendation to the committee is to pursue an examination of regulatory options that will foster more access to philanthropic capital by charities.

In a business, innovation or growth is frequently financed through a loan or an investment, but in a charitable context there are far fewer financing options. Operating capital is attained year to year from a range of funding sources—typically fees, gifts, or grants—investment capital is practically non-existent, and capital accumulation is discouraged by federal regulation.

On the investment side, federal and provincial laws allow only investments prudently made with a secure expectation of return. Federal regulators have ruled that even passive investments in limited partnership structures by private foundations are not permitted, because under the rules of partnership law, these investments could mean that the foundation is engaged in running a business, something that's prohibited under the Income Tax Act.

This attempt to maintain a strict dividing line between charity and business has meant that in practice, private funders remain confined to a funding paradigm focused almost entirely on grants. The implication of this is that it has not encouraged the full deployment of the approximately \$39 billion or more that is held in foundation endowments. Charities benefit from the 3.5% to 5% of the endowment moneys disbursed annually by foundations, but typically don't access the other 95% of those assets held in the endowments.

We suggest that the federal government consider adopting a regulatory framework that encourages more philanthropic investment. We were really pleased to see this summer that the CRA has taken a significant step forward in this regard with the release of its new guidance on community economic development. In that guidance there is more latitude now for program-related investments. That's a really positive step, and we applaud it.

What we now urge the committee and the government to do is consider examining other regulatory options, specifically: reviewing the CRA's position on investments in limited partnership structures, qualifying specific social investment projects as qualified donees, and continuing to clarify CRA's guidance on the relationship between mission-based investments and business activities.

We urge the committee to recommend to the government that it reconsider its current interpretation of limited partnerships, which are currently barred to private foundations. We suggest that this rule merits reconsideration in the case where such an investment can be demonstrated to further a charitable purpose. The government has already recognized the principle that a private foundation can enter into an investment-like vehicle, such as a PRI, with a commercial entity as long as it furthers a charitable purpose. Consequently, we think it's logical to apply this principle to the situation of a limited partnership with certain conditions related to charitable purposes.

• (1550)

The regulatory changes we're suggesting would not incur a fiscal cost to the government but would promote greater access to capital for growth, through either debt or equity instruments, for the community sector in Canada.

Thank you for your attention. I welcome any questions.

The Chair: Thank you very much for your presentation.

We'll begin members' questions with Ms. Nash, please, for five minutes.

Ms. Peggy Nash (Parkdale—High Park, NDP): Thank you, witnesses, for being here today and for making your recommendations, which of course are much more detailed than you have time to present here at the committee.

I want to begin by putting on the record that there are many people who donate but who are not recognized financially—who donate

their time. I come from a community in which we have a huge volunteer base. People even of very modest means help out regularly and really support the community, for doing which they get no tax credit or recognition whatsoever. Certainly some of them don't make enough money to get a tax credit, but even those who do.... There are lots of ways to donate. Time is one way, and obviously money is another way.

I wanted to get that on the record, because I think it is an important factor that we haven't spent much time looking at throughout our deliberations. Of course, we are looking at the whole issue of fostering more charitable giving.

We have heard a different kind of idea from Mr. Carmichael. In terms of your "charity+" program, you mentioned that some other countries steer additional funding or encourage additional funding by giving a greater tax credit to some specific areas of greater need.

I have two questions on that.

Can you elaborate, describing what some of the specifics are in those programs and saying where you think the best model is?

Secondly, you talk about increasing the tax credit to 40%. Have you done any modelling, or have you crunched any numbers about what impact that would have upon our overall fiscal situation? Is it something you expect would have a large take-up or that would not have that big an impact?

Thank you.

Prof. Calum Carmichael: I would like to be on the record, too, Ms. Nash, to commend those Canadians who give of their time. Indeed, the imputed value of labour to the third sector is about 11.2% of total revenues, whereas the value of contributions is only 8.4%. So in terms of the actual impact even to finance the value of labour, volunteers exceed contributors of cash. I join you in your commending those who have done that.

You have asked about different models. Here, first of all, would I personally endorse a charity+? Yes, I would. But my sense is that it's the responsibility of the Government of Canada to decide what area of the charitable sector is really most important to Canadians, and so I don't want to presume that my views are necessarily those of the Government of Canada.

Indeed, different governments have chosen different sectors. Brazil, for example, perhaps mindful of the FIFA competition in 2014 and the Olympics in 2016, features sports. Corporations that give to sports activities receive a far higher deduction than if they give elsewhere.

France and Arizona, for example, are the jurisdictions that I think are most closely related to what I see as attending to people of low income. Arizona was the first of several American states to introduce this; it did it in the 1980s. There, organizations that provide services to people below the poverty level self-identify, and their names are posted on the website of the government, much like those of organizations that were eligible for matched credits or relief following the tsunami or the east African famine of last year. There, those organizations are identified, and individuals who contribute up to \$200 to them receive 100% tax credit for those organizations; it's a complete write-off. It's capped, so that these are privileged, but they're not robbers. The validity of the rest of the charitable sector is still there.

The same thing happens in France. There, it is for organizations that provide basic food and services to people of low income. The standard tax credit is 66%, but if you give up to €500 to an organization that provides basic food and services to people of low income, you get 75% as a tax credit. So 29% doesn't seem...fair enough; there's a provincial tax credit that comes as well—

I'm sorry, am I over?

• (1555)

The Chair: You are just about over right now, yes.

Prof. Calum Carmichael: I'm sorry; I didn't realize.

I'm happy to talk about my own study, but in terms of numbers, in terms of impact, this is something I have not done directly, and indeed there is no firm answer.

The Chair: Thank you.

Thank you, Ms. Nash.

Mr. Jean, please.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses for attending today and giving evidence.

I noticed from the Canadian Bar Association's submission that they are suggesting this is a very worthwhile accomplishment, and indeed you mentioned that greater tax efficiency and fairness is a great goal to move towards. I think that is very true.

My questions relate primarily to your comments in your submission regarding some of the things, but first of all, do you think that as parliamentarians and as bureaucrats we have an obligation, some type of fiduciary obligation, to get this right? Obviously a tax deduction is a great advantage for corporations and individuals to have, and we certainly are carriers of the Canadian people's obligations to make sure that things are done properly. Is that fair to say?

Mr. Peter Broder: Yes, but taking into account that the donation portion, taken as a whole, is actually relatively modest, as Mr. Houston was mentioning, in terms of what comes from earned income and from....

Mr. Brian Jean: Absolutely, but either way you look at it, it's a very....

I look at it personally as a fiduciary obligation, because obviously I have an obligation to the people of Canada to make sure that I don't give a tax deduction to anybody who doesn't deserve it. Is that fair to say?

Everybody is nodding their head in agreement.

So this is a very important thing that we do, and so the checks and safeties that we do during this time are very important as well.

Wouldn't you agree with that, Mr. Broder?

Mr. Peter Broder: Yes.

Mr. Brian Jean: Okay. That's why I was surprised to see that you mentioned that excess regulation and some of those things are administratively unworkable. And I notice that you came up with six technical amendments, but do you believe that they're administratively unworkable at the present time?

Mr. Peter Broder: What happens is that oftentimes the legislation is drafted in very broad terms, and we rely a lot on the Canada Revenue Agency to exercise its discretion, which prevents organizations oftentimes.... If they don't have access to legal advice, they may just not undertake the transaction, or it may be risky for them to undertake the transaction.

There are certainly legitimate tax policy reasons why many of those regulations are in place, but the challenge is to draw those narrowly, so that they don't preclude—

Mr. Brian Jean: Of course, for a lawyer, you're subject to the due diligence that is necessary and giving proper advice to people and picking board members, making sure they're not nefarious characters and things like that. It's difficult for lawyers to give advice on what-ifs and what possible things can take place. Is that fair to say?

Mr. Peter Broder: That's correct, yes.

Mr. Brian Jean: That's probably the reason why the CBA has taken the position, because it's very difficult to give advice from time to time relating to things that you don't know and you don't want to go and do the due diligence on yourself.

Mr. Peter Broder: I think the challenge is around the breadth in terms of some of the measures.

Mr. Brian Jean: That's fair. Thank you very much.

I have two minutes left and I want to talk briefly about how we get larger donors to donate more money. The reason I say this is that I have seen the shrinkage, as everybody has, and I've been interested to see that there is a lot of money still out there—a lot of money in corporations, which obviously belongs to shareholders and the directors and people who own the companies.

How do we get those people to donate more? There is a small percentage of people who donate a large amount. Are there any suggestions today on how we can get those people to release the cash in ways that are not negative for the government but would be advantageous for the people who received it? Do you see any particular type of tax treatment that would release the floodgates of those people who already give?

Mr. Hallward, please.

• (1600)

Mr. John Hallward: Primarily that's the goal we see within our initiative, within GIV3. It is not to unfairly penalize the government in terms of costs, but instead to encourage and incent.

In our experience, what happens is that at the higher-income levels people stop at an absolute level. They may have a huge salary and give \$1,000, look around and ask who else in their neighbourhood gave \$1,000, and go, "Great; then I'm done"—not realizing that \$1,000 may be a quarter of 1% of their salary.

What we feel we need to do is in a sense define a new norm. I've seen this in my fundraising experiences. People don't like to be taken advantage of and give far more than anybody else, but neither do they want to under-give. If everybody in the neighbourhood is giving \$100 and you only give \$25, then somehow you feel cheap and not keeping up with the Joneses.

Part of what needs to be done...and we see this in various religious institutions and groups. They define a certain level, and their members live to that level.

A voice: Like tithing.

Mr. John Hallward: Like tithing.

So under the same tax system, if that group can do it, then what's missing with this group? A lot of it is defining, leadership, mentoring, education, and setting the social norm. And that's what we want to do.

The Chair: Thank you.

Thank you, Mr. Jean.

We'll go to Mr. Brison, please.

Hon. Scott Brison (Kings—Hants, Lib.): Thank you very much to each of you for joining us today.

Some of you have referenced the proposal to eliminate the capital gains tax on gifts of real estate or shares in private companies. Would each of you opine—just yes or no—on if you think we should go in that direction? Some of you have not given us your views on it, so I'd be interested in your thoughts.

The Chair: We'll start with Mr. Broder.

Mr. Peter Broder: Our view is that diversification of tax-incentivized vehicles is a good thing because, given the ups and downs of the economy, to give donors different options is a good thing.

Hon. Scott Brison: In addition to...*[Inaudible—Editor]*

Prof. Calum Carmichael: I have not looked at that directly, but my concern is primarily not how much is given, although that is

important, but where it is given. Typically, large donors are inclined to give to education or to cultural organizations. Here's my question to the government: is that where you want your tax dollars to go? It's not simply a matter of quantity; it's venue, I think.

Hon. Scott Brison: Yes, I think so.

Mr. John Hallward: I think our point of view is that anything that helps to encourage greater giving needs to be looked at. Obviously, it has a cost and benefit to it. Our point is that it can't be just tax policy. That alone won't be the difference.

Mr. J. Alexander Houston: Our view is that this is something worth looking at. It's an untapped asset that could go into a variety of charitable activities, so we support looking at it. I think the issues that have been raised around it have been issues of valuation. Various submissions have been made about meeting that concern, so it seems to us that it's an opportunity worth a much closer look than it has had so far.

Hon. Scott Brison: Yes. The changes to the elimination of capital gains tax on gifts of publicly listed securities certainly have yielded a significant increase.

You're speaking of the cost of the measure. The Department of Finance refers to tax expenditures when they're referring to this sort of thing. It's based on the assumption that the disposition of the shares would occur in any case, that they would occur even without the favourable tax measure or the changes in the taxes.

In some ways, that's a specious assumption, because ultimately it may not have occurred. The transaction may not have occurred without it, so in fact I think they're assigning a cost to this that in fact may not be legitimate.

I think, Mr. Hallward, you said that it's not just tax changes. In addition to that, could the government be involved more in the promotion and encouragement of more giving through a national program of advertising and support? Is encouraging more giving something that the government ought to do more of? Are there examples of other jurisdictions where that is occurring?

Mr. John Hallward: I'm not sure exactly where the responsibility of the government stops and starts, but take something like ParticipAction, which has its own financing. Then the money itself is managed by a board and a team. The Own the Podium program is another one where money is assigned and then that team manages it and executes it as best as possible. There has to be accountability for sure, etc.

So yes, that's our view: that by defining, encouraging, and rewarding, for youth, for seniors, and for new citizens coming to Canada by just raising expectations, then a rising tide floats all ships. We think there's very good return on the value. For a program of \$5 million, with partnerships from the private sector, even if we fail miserably and only get 10% of our goal, that's \$200 million against \$5 million spent. It's an incredible ROI.

• (1605)

The Chair: You have one minute left.

Hon. Scott Brison: Mr. Carmichael, you're saying that the government ought to identify priorities and then create the incentives based on that. You referenced the U.K. as having done that, I believe, or...?

Prof. Calum Carmichael: It was one of the countries.

Hon. Scott Brison: It was one of the countries. Is there a risk that government, in prioritizing to that extent, can sort of pick...? There's always that question of government picking winners or losers or potentially...government tends to be better at picking losers, generally, on these things. But is there a risk of government actually picking the wrong priorities, and wouldn't private donors potentially be better at that?

The Chair: A brief response, please.

Prof. Calum Carmichael: I see that as a risk in any budget exercise.

Hon. Scott Brison: Thank you.

The Chair: Okay, thank you.

Thank you, Mr. Brison.

Mrs. McLeod, go ahead please.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Mr. Chair.

I'd like to start by directing my questions to Mr. Houston.

Towards the end of your brief, you talked about approaches that Revenue Canada could take. You did reference that you found the new guidelines helpful, but that we need to go a number of steps further.

Can you talk about how you anticipate it would help? Would we actually not be just giving...? It sounds like you're putting charities into private business almost, and if they're gaining advantages, really what you're doing is creating a non-competitive situation.

So I was intrigued, but I certainly want to understand better the pros and cons behind your thoughts.

Mr. J. Alexander Houston: The proposal comes from the recognition that an enormous amount of charitable capital is not deployed in support of charitable activity. I'm providing that from an endowment foundation perspective, where the money essentially dribbles out every year in small increments and the large amount of money that sits in capital in those foundations is not employed towards the mission of those organizations.

In much of the sector over the last five years, the conversation has been is there some way in which we could enable the deployment of charitable capital more directly towards charitable missions? How would we go about doing that and what are the enabling steps that we could take to make that capital work more directly towards the kind of charitable purposes the organization is set out to support?

I think we're getting there slowly. There's an enormous interest now in much of the foundation and endowment sector in pursuing that idea a little more muscularly and imaginatively, and the

Canadian Task Force on Social Finance was very influential in that regard.

The challenges start to come in as foundations and other funders look at the possibilities of how they would make those sorts of investments. The ability to do that is severely restricted by the kinds of corporate and legal structures that they're permitted to support and the ones that they aren't. So the suggestion we're making is to be more flexible on the types of structures and tie the investment to the charitable purpose that the investment is designed to support.

I think with those intentions and some regard to the nature of the investment, the effect could be to more readily deploy a very large amount of money, currently sitting largely idle, in support of the larger charitable sector.

Mrs. Cathy McLeod: Could you give me one or two examples of how you would see this working?

Mr. J. Alexander Houston: We're starting to see the emergence of new funds or investment vehicles that would support loans to charities, for example. Take something like the new organization called the Community Forward Fund. They're a financial intermediary that gives loans to charities, because charities often have a tremendously hard time accessing conventional financing; they need working capital, they need bridge financing if they're in a capital project. This fund would provide funds to them. But most foundations wouldn't be able to invest in that financial intermediary because it's typically structured as a limited partnership.

So that would be an example of a funding community that would like to support that kind of innovative financial instrument, which would meet their charitable objectives and support the broader sector, but they can't do it, because the way the rules are currently set up, it's difficult to make that form of investment.

We're simply suggesting that we make a more enabling environment that would get some of that capital towards charitable purposes and remove some of the barriers we've unwittingly built in to those kind of innovative investments.

• (1610)

The Chair: Thank you.

Thank you, Mrs. McLeod.

[*Translation*]

Mr. Caron, you have the floor.

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

Thank you for being here. Congratulations for your excellent presentations. Unfortunately, I only have five minutes. I will ask specific questions. I hope that your answers will be specific as well. I will deal with the same issues raised by Ms. Nash and Mr. Brison.

I find the idea intriguing, but I still have some questions on the effect it would have on our philosophy of charitable organizations.

As it now stands, historically, four underlying heads are recognized under common law, and they are used to define a charitable organization: the relief of poverty, the advancement of education, the advancement of religion, and other purposes that represent a clear benefit to the community.

Is your idea of a “charity+” program the equivalent of establishing priorities in these areas according to the will of the government?

[English]

Prof. Calum Carmichael: I'll try to be brief.

[Translation]

Mr. Guy Caron: That is fine, because I have other questions for you.

[English]

Prof. Calum Carmichael: Okay.

Common law is something that is shared by many countries, but their practices of the tax treatment are very different.

In India and Australia, for example, religious organizations are not eligible for any tax credit, even though they share the same headings from Pemsel, the same common law reference.

Fair enough, they're charities, but the financial privileges that come with that designation are very diverse across the charitable sector.

Singapore is another case of a common law country that does not provide any tax incentives to a church.

[Translation]

Mr. Guy Caron: I have a specific question. Is the proposal you are presenting today the equivalent of the government establishing priorities, and saying that, for tax credit purposes, some purposes are more important than others?

[English]

Prof. Calum Carmichael: The government has already done that, through the matching grant for providing assistance following international disasters. The government has already done that by recognizing that a tax credit going to a political party is worth a 75% tax credit as opposed to a 29% credit.

So the designation of certain areas as being privileged—we've already gone down that road.

[Translation]

Mr. Guy Caron: I understand what you are saying. However, when people give or ask for donations in response to an international disaster, for instance, the government already has a policy of matching individual contributions. So it is a type of tax credit, but in the form of a direct subsidy related to the donation.

I am trying to see how a donation in response to an international disaster can be considered the same as a donation made to a charitable organization as presently conceived. I could make the case, for instance, that a donation to a political party or a tax credit for the arts, for children or for sports, both fall into a different category that is not the same as donating to a charity.

[English]

Prof. Calum Carmichael: Given the diversity of practices in different countries that have identified certain areas of activity as being more deserving of the government tax dollars foregone, I think this is something that governments should take into account.

Any budgeting exercise, as I mentioned to Mr. Brison, is one of making judgments. Where do the tax dollars best have a social impact? To simply forego, and let those people with the resources and inclination to donate—to give them a predominant vote—I think is wrong. I would suggest that governments should decide themselves where they think the tax dollars should go.

• (1615)

[Translation]

Mr. Guy Caron: Thank you for your answers. That helps us to clarify the matter.

My other question deals with the effect this would have on administrative costs and on paperwork in general at the Canada Revenue Agency, for instance.

As it now stands, we have a single system for the four types of donations. Everybody is treated equally and it makes things easy.

Would your system not make things more complicated in terms of how it would be administered?

[English]

Prof. Calum Carmichael: Yes, it would.

I must admit, at this extent, I've not looked at the exact administrative procedures in, for example, Arizona or France. But it is being done. Would it take more work to designate certain tiers? Yes, it would. That's why I'm suggesting one additional tier, not multiple ones. There are five tiers in Portugal.

[Translation]

Mr. Guy Caron: Thank you.

The Chair: Yes, thank you.

[English]

We'll go to Mr. Adler, please.

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

I thank all of the witnesses for being here this afternoon.

Mr. Carmichael, you're actually the second witness who's appeared here today who is a former instructor of mine from the Carleton University graduate school of public administration. The previous one was Avrim Lazar, who actually gave me an A, but you gave me a B+ in Public Administration 567, so I'm going to focus my questions on you.

Voices: Oh, oh!

Mr. Mark Adler: I'm very intrigued by the “charity+” concept. I'm just wondering about this. It has been broached by a number of the other questioners. In terms of selecting the particular charities that would be beneficiaries of a charity+ concept, we can identify certain charities ahead of time, but then there are those instances that occur—earthquakes, tsunamis—that are unforeseen. Would not those charities be at a distinct disadvantage to those that are in the charity+ regime?

These are charities that would be outside the charity+ regime and that may indeed be more immediate in terms of need and maybe more worthy at that particular time, but because there are acts of nature that we could not anticipate, could that not be a problem with charity+? I'd just like you to explain that. Maybe I'm wrong.

Prof. Calum Carmichael: Given the public notoriety of international disasters, my sense is that an opposite phenomenon can happen. My understanding is that for the tsunami the organizations were receiving more contributions than they could actually handle, in having Christmas overlap with the actual disaster, so my sense is that the public profile these disasters receive...they already receive considerable government and private contributions. I don't see them as being in any way made an underdog by an ongoing endorsement of certain areas of charitable activity having an ongoing higher credit.

Mr. Mark Adler: That's fair enough.

Just staying on designating those charities, again, who would designate those? Would there not be a competition between the charities? How would that all work? Wouldn't some charities be envious of others?

Just explain that whole process for me and how you envision it.

Prof. Calum Carmichael: Sure, and I think this is why organizations such as Imagine Canada would not endorse this—because they represent all charitable organizations, whereas this would recognize certain activities as being more worthy of tax dollars than others.

So it is a difficult issue, but it is being done elsewhere, and I think by default it's being done in Canada. For example, there is the matching credit program, as I said, for disasters, or at the provincial level, as in the U.K., matching contributions to institutions of higher education, where those are being rewarded.

So yes, but in addition, though, that's why I'm suggesting not to deny any organization its existing tax credit, but rather to top up for certain ones that perhaps deserve more, and cap the contributions that would be eligible for it, so that there would not be a flight of contributions to the more privileged ones. That is consistent with the practices in other countries.

• (1620)

Mr. Mark Adler: But in Canada, how would you determine which ones would be topped off and which ones wouldn't? Who would do that determination?

Prof. Calum Carmichael: Who would do that? I would suggest that it is the responsibility of a government to decide what areas of investment are worthwhile for the population that they have been elected to serve. I see this as part of democracy—

Mr. Mark Adler: [*Inaudible—Editor*]...bureaucrats, because that would be—

Prof. Calum Carmichael: I would; I would see, though, that it's also a stability. You don't want to change it. It would have to be put into place. But I think any budgeting exercise requires that decision: where are tax dollars best spent?

Mr. Mark Adler: Yes.

Prof. Calum Carmichael: Is it easy? No. Is it important? Absolutely.

Mr. Mark Adler: Yes, I hear you.

The Chair: You have 30 seconds left.

Mr. Mark Adler: Thank you.

Mr. Hallward indicated earlier that the trend in charitable donations is moving in a downward direction. Do you think charity+ would address that downward trend and see an upward slope?

Mr. Carmichael.

Prof. Calum Carmichael: My sense is that relative to a stretch tax credit that would self-extinguish—once you give a high amount, you're no longer eligible for any additional bonus—a charity+ would have a long-lived incentive.

Mr. Mark Adler: Thank you.

The Chair: Thank you, Mr. Adler.

[*Translation*]

Mr. Mai, you have five minutes.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you, Mr. Chair.

[*English*]

Thank you to all the witnesses for being here.

Mr. Hallward, in your brief you mentioned that we have a charity gap. We know we already have the gap between the rich and the poor—it's getting bigger and bigger—but you're talking about the charity gap. You also mentioned that the cutbacks from the government in terms of charities threatens all charities.

Can you give us a bit of a picture of what's happening on that side?

Mr. John Hallward: Yes.

I don't mean to impute anything for the Canadian government; just looking at governments in austerity movements in Europe and elsewhere, many governments have deficits and huge debt loads. The need to more fiscally balance budgets requires a pullback in what they're spending.

If they're pulling back at the same time that Canadians are not stepping up to replace that gap, we end up with a wider and wider gap. Our initiative is to try to fill that void, to try to get Canadians to increase and replace...hence the name “billion-dollar solution”. In a sense, for every billion dollars the government wants to pull out, can we incent and encourage Canadians to replace that billion?

It sounds like a high number, but it's actually not that difficult. A billion dollars on a giving of about \$8 billion is only about, what, 12% or 13% change?

Mr. Hoang Mai: I also understand that you want GIV3 to be the group that encourages charitable giving or donations.

Are you getting support from other groups in terms of your group being the voice, the ParticipAction, if you want—as you mentioned—in terms of being the focus...?

Mr. John Hallward: It's a very fair question.

Our real goal is to try to avoid duplication. We have an advisory panel. Marcel, from Imagine, is on it; Ian Bird, from the Community Foundations is on it. Hillary, from PFC, is on it. Al Hatton, who is leaving the United Way, is on it. Hopefully Jacline will join us. We have a meeting with her in two weeks.

We want to work with all of them. It's a bit like apple pie and motherhood; the more the charity goes up, everybody gains.

We're very focused on messaging to citizens. Imagine Canada has a corporate initiative and policy initiative. We don't do policy, we don't do corporate; it's specifically that gap that nobody else is addressing in Canada right now, which is to Canadians.

Mr. Hoang Mai: If I understand correctly, you're getting support from most of the organizations. You mentioned Imagine Canada, which is one of the big ones.

Everyone agrees that we need to have.... We talked about the leader in another bill, but you would be the leader and everyone supports that.

Mr. John Hallward: Yes. There was a national summit in Ottawa at the end of last November, and those four organizations that I just mentioned brought everybody together. It was very well attended—500 attendees. The idea was on how to promote the sector.

There was not a whole lot that came out of it. I'm not pointing the fingers at anybody. The problem is that each of those four organizations has their own budget, their own mission statement, their own board, etc. Collaboration is extremely difficult when you have four different groups with different budgets, mandates, boards, etc.

The solution, then, is not collaboration. Of course we're going to have collaboration, but it will be one brand. There will be one steering committee, one board, one budget, working in partnership with each of these organizations.

They support that. They will say it has been frustrating since last November that they couldn't step it up, but that none of them have the mandate to do that.

We came from nowhere. We're self-appointing. I'm giving ourselves that mandate; now what I need to do is get support and seek capital and get it going.

• (1625)

Mr. Hoang Mai: Mr. Houston and Mr. Broder—I don't have much time left here—we've been pushing for the stretch tax credit, and I understand that you're both supporting it. Also, you're suggesting others; for instance, capital gains.

What would it be, if you had to choose one? Would it be stretch tax credits, in terms of one measure as a start?

Mr. J. Alexander Houston: I think the various mechanisms we've discussed today are aimed at different constituencies and would release different resources from different groups. I think it's hard to say there's one answer. I think what you want is an array of strategies to tap the giving impulses of different Canadians in different situations.

The stretch credit is quite different from the private share proposal...is quite different from thinking about some of the things I talked about in my remarks.

Collectively, I think they have the effect of unlocking significant new money for Canadian charities from a range of givers.

The Chair: Please be very brief, Mr. Broder.

Mr. Peter Broder: I think the stagnation in terms of tax filers claiming credits is a pressing problem; so the stretch.

The Chair: Thank you.

We will go to Mr. Van Kesteren, please.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Chair.

Thank you to all for coming.

Mr. Carmichael, one of the problems we have in this country with university research is that we do some really great research, but a lot of it never reaches the marketplace. Is there a danger, if we begin to orchestrate where moneys go, that we will start to stifle that type of research that is just raw research?

The industry committee travelled a number of years ago. We noted that there really are a lot of interesting people who work in some of the universities who just are given the free expression to go and explore.

But isn't there a danger that what will start to happen is that governments will say, yes, we will allow this type of moneys to be noted as...but they get their hands involved, and they get their will involved, and the next thing you know they start to say which direction universities go on research?

Prof. Calum Carmichael: If there was trying to be a very fine designation of what particular activity was important, I could see that you might be denying creativity, inventiveness, or resourcefulness more widely seen. You might miss or stifle that creativity by funding one area.

What I am suggesting is really quite a broad-brushed area, hoping that different organizations will find different ways in which to attend to quite a broadly defined need. I don't see this as controlling or missing entrepreneurship or creativity, rather encouraging it, but in an area that the government sees as really most pressing—the needs that are most important.

Mr. Dave Van Kesteren: To further that, I want to ask you a little bit about this. If we think about the history of donations and why governments have gotten into the habit of affording people tax deductions when they give, governments recognize that there are areas in society—I'm not telling you anything new, but just for the sake of those who might be listening—that they can't tend to, or they may fail to tend to. Subsequently, charitable organizations crop up that see these needs and then serve those areas.

I guess this is a broader question to everybody as well. Again, if we move away from....

You made a very interesting point—maybe we will have time to go back to that—about the fact that Australia doesn't offer tax deductions to religious organizations.

Again, if we start to organize, won't we be in essence picking winners and losers on social subjects or social areas that traditionally those organizations have served?

• (1630)

Prof. Calum Carmichael: My sense is that the government should not try to tell me where to give. Indeed, I am a churchgoer. I give to my church. When I went to Australia, where there are no tax credits, I still gave the same amount to my church. Frankly, I haven't come back to actually sending the government back my money that I get as a tax credit. But I don't need that.

My sense is this: is that really a prudent use of government resources to encourage giving that would take place no matter what, whereas to tip the balance in some areas, so that giving is actually more responsive in areas that perhaps are a greater need, that would be important?

In Australia, as in Canada, a large minority of private contributions already go to religious organizations regardless of whether or not there is a tax credit. In Canada, it's something like 46%. In Australia, it's something like 39%.

Mr. Dave Van Kesteren: That's very close. That was going to be my question.

Prof. Calum Carmichael: It's very close.

Mr. Dave Van Kesteren: So the fact of the matter remains that, whether or not church organizations get a donation, they still seem to make those donations. I guess that's the reason you're saying we need to encourage other areas that traditionally don't.

Prof. Calum Carmichael: Areas that otherwise would be lost or overlooked; if 46% of Canadians' givings are going to religious organizations, and 21% to health organizations, but only 9% to social service organizations, my sense is that is disproportionate. A stretch tax credit would really intensify that type of concentration among a limited sector.

Mr. Dave Van Kesteren: Thank you.

The Chair: Thank you, Mr. Van Kesteren.

Mr. Marston, please.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

I have to apologize. I had to leave the meeting for a few minutes. My wife is having a bit of a procedure today and I wanted to check on her, so I may be repeating some questions.

Before I start, let me say that I had a close to 30-year affiliation with the United Way. I was on their board from the labour side in helping raise money for them. I recall very distinctly that in the eighties when government started to withdraw from providing certain levels of service—we can debate the merits of the services that were there—in the volunteer sector, the charities started filling the gap.

From our perspective—or at least my own at the time—we felt it was an abdication of the responsibilities of government. The government would raise the taxes and then the charities could do what they do best, which is to provide the services they're mandated to do as opposed to—no offence—employing tax lawyers and

employing other people to build almost a substructure that to my mind takes away from a lot.... The charities do a lot of reporting. They spend a lot of their energy doing that. That's my little editorial comment, because I still believe that government has a role.

As my friend said, the picking of winners and losers will be the problem for the government. We'd have to rely on the expertise of people in the sector.

Mr. Broder, I want to go back to what Mr. Brison raised before: the elimination of the capital gains on donations of publicly listed securities. The reaction I saw from the four of you when that was raised was that it obviously was seen as a positive move. Do you think that changed the application of actual cash donations when it happened or was it something in addition to the cash donations?

Mr. Peter Broder: I believe the finance department did a study when it was first introduced as a temporary measure and they were considering making it permanent. There was a sense that it augmented the existing donation pool.

Mr. Wayne Marston: So that's the good news, then, that it's something of a benefit.

I'll stay with you for a moment. There's the other aspect of potential donations of private shares. If an arm's-length purchase was made and there was an arm's-length assessment of its value, do you think Revenue Canada would accept the said value of those shares when they're donated?

Mr. Peter Broder: As Mr. Houston mentioned, the valuation issue has always been a challenging one on that particular measure. It would depend on how the provision was drafted, I would think.

Mr. Wayne Marston: Okay.

I think I caught that your name was pronounced differently than I read it. Is it Mr. Houston?

Mr. J. Alexander Houston: "Houston" is actually a counter-intuitively pronounced name.

• (1635)

Mr. Wayne Marston: So I caught on. You see, I pay attention—

Voices: Oh, oh!

Mr. Wayne Marston: Sir, I'd like to ask you this question about individuals who make donations to charities related to some significant tax event and who withdraw some of their RRSP money or something of that nature to do so. With the withdrawal of those funds, if they receive a tax benefit in addition to the existence of the charitable one, you actually have two tax breaks going on there.

Would that be reasonable? Would there be advantages or maybe some disadvantages to such a proposal?

Mr. J. Alexander Houston: That's a difficult question. It's not a proposal I'm familiar with, so I wouldn't be able to speak to that on behalf of PFC because that's something we have not reviewed. Certainly, it sounds like there would be a whole secondary set of tax considerations if there were two levels of benefits for the donation at that time.

Maybe Mr. Broder wants to...?

Mr. Wayne Marston: I'm looking at him as well, as he can tell.

Mr. Peter Broder: I think this arose with the flow-through shares in terms of the double dip. Then they changed the law.

Mr. Wayne Marston: I don't care for the term "double dip".

Mr. Peter Broder: Yes, sorry.

Mr. Wayne Marston: That implies somebody is getting something they shouldn't.

Mr. Peter Broder: Yes, I was going to.... Yes, using the two credits.

Mr. Wayne Marston: If it's crafted appropriately legislatively, it might be something worth looking at, I suppose.

Mr. Peter Broder: Certainly.

The Chair: You have 30 seconds.

Mr. Wayne Marston: No, that's fine. Thank you, Mr. Chair.

The Chair: Thank you, Mr. Marston.

We'll go to Mr. Komarnicki, please.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you, Mr. Chair.

I'm new to the committee, Mr. Chair, but I have a few questions I'd like to ask. Perhaps first I will direct my questions to Mr. Carmichael.

You mentioned that you'd like to see a higher credit directed to giving with respect to "pressing needs". I take it that's because in those circumstances people would be more predisposed to give than not, and you're trying to capitalize on that factor.

Prof. Calum Carmichael: My sense is that people might miss how pressing those needs are and that the government could then signal it by the extra tax credit. My sense is that for some organizations where the services being delivered are primarily to the giver—for example, a church or an opera—the incentives are probably correct. People will give, and they'll give the right amount because it benefits them as the giver.

But there are some areas where the giving is actually benefiting others that would otherwise be lost in the view. Witness the two-thirds of private contributions that are going either to religious organizations or to health organizations. Everything else claims the remaining third.

So my sense is that what is pressing is something that the government could decide.

Mr. Ed Komarnicki: In deciding that, would you recommend it be done on an ad hoc basis or in a predetermined way, such as on an annual basis? Or is there a "from time to time" kind of thing to it?

Prof. Calum Carmichael: I would think that it would have to be on a long-standing basis. You couldn't change; the needs are ones that are ongoing.

My sense is that poverty or income inequality is one of those characteristics that people, regardless of their faith perspective or age or economic background, would recognize as being important for society; that those without the material means that others have are deserving some assistance.

Mr. Ed Komarnicki: So are you distinguishing that from...?

For example, the dollar-for-dollar that the government gives when there's a natural disaster; you say that's different from what you're talking about?

Prof. Calum Carmichael: I'm saying they're both ways in which a contributor can think of their dollar going further for a given purpose.

Whether it's matching, or it is by a non-refundable tax credit, as in Canada, or by a tax deduction as in the United States, these are ways in which tax incentives are built into contributing.

My sense, though, is that those incentives should not be uniform, given the diversity of the charitable sector.

Mr. Ed Komarnicki: Mr. Broder, in the stretch tax credit, am I to understand that it would be a one-time benefit whereby you gave more than you did previously, or would it be each time that you've given more?

Mr. Peter Broder: I believe the concept is to use a base year and then to average going forward...to use a base for, say, 2012, and then, once the 2013 and 2014 contributions were in, to do an averaging exercise.

Mr. Ed Komarnicki: Is the idea to make people who are not predisposed to give more, to give more, or primarily because of the incentive rather than the need?

Mr. Peter Broder: I think it's to spur either increased giving from those who are already giving or to bring new people into the donor pool.

• (1640)

Mr. Ed Komarnicki: I understand the tax credit would be 10% for each dollar...that sort of exceeds the previous giving. Do you know why it's the 10%, or how that's arrived at, or whether it's an optimum figure?

Mr. Peter Broder: I think the idea was to put in place a modest measure to see if this kind of mechanism would trigger an increase in donations.

Mr. Ed Komarnicki: There's no objective basis to say 15% is optimum, or 20%; it's just start with 10% and see what it does?

Mr. Peter Broder: Not that I'm aware of.

Other people may be more familiar with it.

Mr. Ed Komarnicki: Mr. Hallward.

Mr. John Hallward: I think there's one other benefit to mention, which is that there's probably also marketing power. If a government made such a move and it got into the press, it would raise attention to the concept and why they are doing it. It would get people talking.

There are other indirect benefits of just bringing philanthropy out of the closet and letting people talk about it and consider it. I think there's an indirect benefit as well.

The Chair: Okay. Thank you.

Thank you, Mr. Komarnicki.

We'll go to Mrs. Glover, please.

Mrs. Shelly Glover (Saint Boniface, CPC): Thank you, Mr. Chair.

I want to thank all of the witnesses for being here.

We actually have four new ideas, which is very exciting. I'm not going to have time to ask everyone, but I would like to go to Mr. Broder on the wills because we haven't talked much about it.

I do note in your submission that you made a number of recommendations with regard to gifts following deaths. I want you to walk me through how this would work. This is something we haven't really talked a lot about, but I do see some value in it.

I want to understand it, so that if it's a recommendation within the report we can articulate it in a way that makes sense.

So walk me through it with person A. You can name him whatever you want.

Mr. Peter Broder: Okay. This is actually a cross-reference to a submission to Minister Flaherty from our wills and trusts section. The particular measures are highly specific to—

Mrs. Shelly Glover: Just in layman's terms; let's say “Peter Smith” passes away.

Mr. Peter Broder: I'll refer that to my colleagues in the wills and estate section and I'll get back to you on that. I don't practice in that area.

Mrs. Shelly Glover: Okay. I get you. Perhaps they could they give us an example so that we can clearly see how much it would cost. First of all, the government....obviously there's a benefit to the estate for providing a gift in the way that it's described. But if you could give us an example that shows us the cost, plus how it benefits the charities, it would be very much appreciated.

I will go to you, Mr. Houston, with very interesting ideas as well. I want to know, though, how do the folks who now provide funding to the community...the CFF, I guess you're calling it? What do they get as a benefit?

Then, what do you do if a charity loses status? What happens to the loan? We have revocations for breaches, so I just need to understand, have you thought that far ahead?

You've also said that your plan is no-cost, no fiscal cost to the government.

Please help me understand this so that I can articulate it in the report.

Mr. J. Alexander Houston: What happens if an investment is made in a charity and the charity loses its charitable status? Is that your question?

Mrs. Shelly Glover: Yes, that's part of it. What is the incentive for people to donate to the CFF? What benefit do they get? Is it just a good feeling?

Mr. J. Alexander Houston: I see.

Mrs. Shelly Glover: As well, what happens if you provide a loan to a charity and their status is revoked, or they go bankrupt or disappear or something happens?

Mr. J. Alexander Houston: I think the incentive would be that the donor community recognizes a need, and that need is the absence of financing structures for charitable activities.

For the group of people who are interested in trying to move a set of structural issues in the sector and who want to do something beyond their grant-making, the possibility of investing in an intermediary that's going to deliver to a need is attractive. At the same time, if they can do this in a way that allows it to be an investment in which they would earn both a social return and some kind of a financial return, that's attractive too.

I think the incentive is there for a certain part of the donor community.

The issue of the risk arising from somebody's becoming deregistered as one, I wouldn't really know how to answer. If we're talking about a loan transaction, I'm not sure that the status of the person to whom you're lending is necessarily relevant. You would still have the same financial relationship. You'd probably call the loan at that point because it would no longer be serving the community that you intended to serve or the organization was in some kind of difficulty, but that would almost be something that was within the structure of the loan provisions, which I must confess is not something I'm terribly familiar with.

• (1645)

Mrs. Shelly Glover: You've answered the way I was hoping you would. I didn't want there to be some kind of criteria attached to it, because that would make it very complex.

Mr. Carmichael, you said there would be five tiers. I just want to make sure I understand what the five tiers are.

Prof. Calum Carmichael: No, that was in Portugal. I was not recommending that in Canada. I'm just saying one tier. I don't want my neighbour who works for the Canada Revenue Agency to come pounding on my door.

Mrs. Shelly Glover: Okay. Perfect.

It's very interesting to me that you have studied this abroad, because we have had other people come and say, well, the United States has this, and the U.K. has that.

One of my colleagues already asked which country you thought has some of the best options, and I know you were hesitant to answer. If at any point you change your mind, and after you're finished here tonight you want to revisit that, please send us in your submission, because I'm curious to know what you think.

Prof. Calum Carmichael: Thank you.

The Chair: Thank you.

Mr. Caron, go ahead.

[Translation]

Mr. Guy Caron: I have one last question for Mr. Hallward and Mr. Houston, as they mentioned this topic during their presentations. Mr. Broder and Mr. Carmichael should feel free to provide an answer as well, if they wish to do so.

This is our eighth meeting on charities, and it is my third one. From what I can see, there is something that comes back again and again. Based on what people have said in their presentations—you are not the only ones, as those who presented before you said the same thing—the number of donors is going down, according to tax returns.

However, in March, Statistics Canada published the National Survey of Giving, Volunteering and Participating. This survey is conducted every three years. It seems to show that the percentage of people giving to charities has remained stable over the past three years, at 84%, and that the amount of donations has increased from \$10.4 billion to \$10.6 billion, I believe. So there appears to have been a slight increase, and the number of donors seems at least to be stable.

Looking at tax returns, there may seem to be a decrease. However, in these reports, we should remember that couples may share or split charitable donations. So, what is the right answer? Is the number of donors really going down or should we instead look at the results of the survey showing that the percentage is stable?

Mr. Houston and Mr. Hallward, we can start with you. Mr. Broder and Mr. Carmichael can answer afterwards, if they wish to do so.

[English]

Mr. John Hallward: I believe there are different data sources. The Canadian survey of voluntary giving and partnerships, which is run by StatsCan every three years, does quote that roughly 85% of Canadians give, and I think that's right. People have said, yes, they gave \$5 to the Terry Fox run two weeks ago. The difference is it may not be receipted, and it may be very small. We're now at 23.1% of tax returns claiming a charitable receipt. That's been declining for 20 years; it used to be closer to 30%, so we're down almost a third.

This is people who have tax credits. They're smart enough to keep them and submit them. So we're probably talking about the bigger gifts and the wealthier people. But we need to know which ones we're tracking.

Yes, I can take my wife's donation and put it onto mine, and that explains maybe why it's lower. The median amount, which means half Canadians give more than this and half give less, in those claims is only about \$250. So it's an extremely low percentage of the average household income. That \$250 is relatively stagnant and not a big amount. So if I'm doing it for two, my wife and I, \$250 is fairly petty. It's not a high number and that's our problem. It's not that Canadians don't give. It's that they don't know how much to be giving.

In an Ipsos survey, we asked Canadians if they knew how much they should be giving, and about 75% of Canadians said no.

Do all of you around this room know exactly what you should be giving to meet social norms? The people who know tend to give more. The people who had tithing, who were brought up to know what they should be doing, they give more.

So reason leads us to believe that teaching and defining works. We all have the same tax policy, so it's more than just a tax policy issue. It's a social, cultural, learned, mentored behaviour.

The same thing happened with recycling. Only 25 years ago, if you recycled, you were on the fringe and you were abnormal. In one generation if you don't recycle, there's peer pressure and you're a pariah. It was a multifaceted approach—teaching kids, peer pressure, and all these things made a fundamental change. It was the same with seat belts, drinking and driving, smoking. It takes time and it

takes a multifaceted approach. That's what we're suggesting as a solution.

• (1650)

[Translation]

Mr. Guy Caron: As a more accurate indicator of donations in Canada, would you also suggest using the median amount of donations instead of the number of donors or the amounts given?

[English]

Mr. John Hallward: I'm a fan of the median if we're talking about all Canadians, because, as we recognize, something like 60% of the money donated comes from 10% of Canadians.

There are extremely wealthy people, and I'll leave those guys to Warren Buffet to go after. I'm talking about a behavioural, cultural thing so that a generation from now we don't run out of donors. So I want to go with the median, which defines and represents a metric for all Canada.

[Translation]

The Chair: Thank you, Mr. Caron.

[English]

I want to take the next round.

Mr. Broder, I want to discuss your brief. On page 1 of the brief, it says that the CBA

...supports streamlining of regulation to reduce the administrative burden on registered charities and other qualified donees and other measures that promote efficiency and effectiveness in the charitable sector while ensuring that resources available for charitable work are maximized.

Then you have the letter to the Minister of Finance, and under number three you have:

Permitting the legal representative to designate all or part of the Undesignated Gift Portion to be transferred to any testamentary trust created under the individual's will.

The Undesignated Gift Portion would be available to be applied against estate income according to the ordinary rules respecting charitable gifts. However, the estate may have insufficient income to utilize the consequential charitable donation tax credit because the will provides for the establishment of one or more testamentary trusts.

The CBA Section believes it is undesirable from a policy perspective that the unused portion of the charitable donation tax credit would be unavailable by virtue of a specific testamentary scheme set out in the will.

The CBA Section recommends that section 118.1 be amended to allow the legal representative to designate all or part of the Undesignated Gift Portion as a testamentary trust created under the individual's will.

I support what you said on the first page, but it seems you're recommending things that are going to be complicating, certainly from an income tax perspective, the regulation of charities. When Mrs. Glover asked you the question, I was a bit unnerved in the sense that it was my question as well. I wanted you to explain how it would affect the will of one individual passing away.

Isn't this a bit of a problem that we're facing? People say to streamline things, not to over-regulate; however, just make these three changes that, in fact, go against the streamlining of the regulation and make it more complicated. You could even apply that to things—whether they're good or bad policy ideas—like the stretch tax credit or the donation of securities, which came up in 2006. It was a good policy idea, but it makes the system more complicated.

That's just a concern I want to raise and have you address.

Mr. Peter Broder: Again, I think I have to defer to my colleagues in the wealth and estate section in terms of the specific recommendations for their piece.

The reference to streamlining the regulation is, of course, a general regulatory scheme that the charities and not-for-profit lawyers encounter on a day-to-day basis. In a number of cases, those rules are drafted quite broadly, and without, often, a clear tax-policy rationale. What we're seeking in the general regulatory framework that applies to charities, as opposed to the donation piece, is that we look at whether there's an opportunity to streamline those. We all know the pressures charities are under to keep administrative costs reasonable. That kind of broad drafting makes it extremely difficult for charities.

The Chair: I appreciate that. But on that point, if the committee recommends a stretch tax credit or some other changes with respect to private property in terms of donations, this is not making the charitable giving sector simpler. It's making it more complicated.

Would you agree with that?

• (1655)

Mr. Peter Broder: It depends on the measure. It depends on how the measure is drafted. Our hope would be that there would be a clear policy rationale in terms of the approach it's taking.

The Chair: Okay, I appreciate that.

Mr. Carmichael, a concern has been raised by a number of members on both sides. Just to address it again, is the government in the position, then, of favouring certain charities over others? How would the government decide that, for instance, donations to a low-income housing support charity are more or less important than donations to, say, military families funds for families that have lost loved ones as a result of their serving in the Canadian military?

How does a government, beyond saying that this should receive a charitable donation number, say that this one charity should receive more of a donation, or more of a credit, than that charity? How would you actually go about deciding that?

Prof. Calum Carmichael: I guess there are two ways. I don't want to be flippant, but how does the government decide what to spend on its wide portfolio of activities? Having to decide priorities is something that any budget exercise requires. In terms of the charitable sector, I think one would ask what types of contributions are the ones for which the incentives are already high enough for the giver. That's a type of organization where the actual services being provided are to the giver rather than to someone else.

I guess I would approach it that way. I think, though, that where there's a long-standing need, so that the sector is not having to adapt to the vicissitudes of government priorities, finding a problem that is

ongoing, stable, and important is something I would urge. Other countries have defined that. Why hasn't Canada?

The Chair: Okay, thank you.

Colleagues, I have two more people on the list. I have Mr. Komarnicki and Ms. Glover, so they're going to share a round. I'll start with Mr. Komarnicki.

Mr. Ed Komarnicki: I'll just finish off with Mr. Broder.

With respect to the stretch tax credit, you would normally have people who give more than they gave in previous years. They would give anyway. When you factor that into the calculations, do you know what percentage would give anyway?

Mr. Peter Broder: Sorry, I'm not sure I understand.

Mr. Ed Komarnicki: If you gave an extra tax credit to those who give more than they had previously, there would be a percentage of people who would have given more in any event. Are you able to distinguish how much you're achieving with that?

Mr. Peter Broder: My understanding of how the measure would work would be that if someone gave \$200 the first year and \$300 the second year, they would get the augmented credit on the extra \$100.

Mr. Ed Komarnicki: It would be for both categories of people, and that's the simple fact of it.

With respect to private shares, the difficulty of evaluating them is obviously a factor that needs to be taken into consideration.

What would be the easiest method of resolving that difficulty? Would it be through accredited appraisers or some other method? Do you have any suggestions?

Mr. Peter Broder: Yes, CRA does have a procedure with respect to gifts in kind, in terms of what types of appraisals. I don't believe that's a legislated measure, that's an administrative approach, in terms of they have an expectation of an appraisal of gift in kind I think if the value is over \$1,000. So there is a procedure for a—

Mr. Ed Komarnicki: So there's an objective way of arriving at that value. So valuation shouldn't, of itself, preclude moving in that direction?

Mr. Peter Broder: That's true, although I would add the caveat that the valuation cases in the courts have landed in sometimes different places. So in terms of case law, it can be a bit more of a challenge sometimes.

Mr. Ed Komarnicki: Okay.

Mr. Houston, you mentioned that we should lift the prohibition on limited partnerships as investments. Now, the theory behind limiting charities is to ensure that charities are concerned with charitable purposes, and achieving those objectives, and not concerning themselves with investments and business-type arrangements, so that their investments should be in something solid and hard, that can't change, that they don't have to think about.

Wouldn't moving in the direction you're suggesting pose some unique problems for charities and for those who give with the expectation that they will only be investing in very safe and sound investments while they're concentrating on the things that they're supposed to do?

• (1700)

Mr. J. Alexander Houston: I have two responses to that. I don't think that investing in a limited partnership asset is fundamentally different from investing in a segregated investment pool. It's just another asset class.

My understanding of the prohibition on one level is a legalistic one having to do with the definition of "partnership law", which says if you're engaged in a partnership structure you're carrying on a business. Foundations aren't allowed to carry on businesses as charities, so we're not allowed to invest in investment, in that kind of an investment structure. That's probably a question for lawyers; I think lawyers could argue about that. But my experience with those kinds of structures is that if you're a limited partner and investor in a limited partnership structure you are not carrying on a business, you don't have direction or control over that undertaking, you're simply an investor, the same way you would be in a large publicly traded company. So that's sort of the legal answer.

That second answer has to do with the fact that a lot of innovative new structures in the charitable world take the form of limited partnerships. So if a foundation wants to invest in something that's forward-looking, that's trying to do something in the world of social finance, the vehicle is often a limited partnership.

So I think there's an answer that has to do with law and range of asset classes and there's an answer having to do with enabling innovative structures within the charitable sector that will make more social finance feasible for investors.

Mr. Ed Komarnicki: Thank you.

Thank you, Chair.

The Chair: Thank you.

I have Mr. Van Kesteren on the list.

Mr. Dave Van Kesteren: Very quickly, Mr. Hallward, you mentioned that the rate of giving is decreasing. Have there been any studies of the relationship of that with taxes?

I think we're being a little hard on Canadians in general, because many of the things we're talking about, many of the very things that we've agreed to support through charities, have been taken over by government. So in essence, aren't Canadians, given to charitable donations...? I mean, they've been usurped to some degree.

As the second part of the question—maybe Mr. Carmichael might want to just touch on this—have there been any studies done on countries that have a high tax rate to see whether or not their giving is less than a country that has a lower tax rate? Have we hit a point where we've taken so much from people in taxes that there just might not be that much room left for charitable giving?

To wrap that up, should we, as a government, be thinking about continuing to lower our taxes so that things like charitable giving will start to increase again?

Mr. John Hallward: I think, particularly if you look to the United States, and I don't think Canada is that different, it's about values. If you actually look at donations by the political parties that people support—I'm not saying anything that's not known—the more conservative people are in their politics, both sides of the border, the more they donate.

Mr. Dave Van Kesteren: But they have a lower tax rate than we do.

Mr. John Hallward: No, in Canada as well. For those who claim to be Conservatives versus Liberals versus Democrats, and it's the same in the United States between the Democrats and Republicans, there is a direct relationship between their political alignment and their values of the role of government.

Mr. Dave Van Kesteren: I don't mean to interrupt, but just to make it plain, what you're saying, in essence, is that if you're on the left side of the spectrum, then you expect governments to look after those things. And if you're on the right side, you say, listen, don't tell me what to do; I want to put my money in this.

So that's part of the problem as well too.

Mr. John Hallward: That's well documented on both sides of the border. That's exactly right, factually.

Prof. Calum Carmichael: With respect to studies as to whether the tax take would actually reduce inclinations to give, I'm not aware of those studies, but would look at the survey on giving, volunteering, and participating that indicates that richer people give a smaller percentage of their income than poorer people. So if you want to increase givings, maybe you should actually tax more.

But I don't want to be flippant.

The Chair: Thank you, Mr. Van Kesteren.

I want to thank our witnesses for being here today. Thank you for your presentations and responding to our questions.

If you have anything further—I know some of the members requested something further—please submit it to the clerk and we'll ensure all members get it.

Thank you so much for being here.

Thank you, colleagues.

The meeting is adjourned.

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