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Chair

Mr. James Rajotte

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•(0845)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order.

This is the 105th meeting of the Standing Committee on Finance. Pursuant to Standing Order 108(2), our orders of the day are a continuation of our study of tax evasion and the use of tax havens.

I'd just identify for all of our colleagues, all of our witnesses, that we are being recorded today by, I believe, two broadcasters. Both CTV and CBC are here; we welcome their interest in this topic as well.

We do have five individuals with us here today.

First of all, we have the Canadian Bankers Association, two individuals with that organization, the vice-president, Marion Wrobel, and the director, Darren Hannah. Welcome to both of you.

We have Canadians for Tax Fairness, and the executive director, Dennis Howlett. Welcome.

We have by video conference from Cambridge, from the U.K., Mr. Richard Murphy, the director of Tax Justice Network.

Mr. Murphy, can you hear me okay?

Mr. Richard Murphy (Director, Tax Justice Network): I can. Good morning.

The Chair: Welcome to our committee this morning. Thank you.

We welcome Professor Arthur Cockfield as an individual. He's in Austin, Texas, this morning. Welcome, Professor Cockfield.

Professor Arthur Cockfield (Professor, Faculty of Law, Queen's University, Fulbright Visiting Chair in Policy Studies, University of Texas, As an Individual): Thank you.

The Chair: You each have up to five minutes or so for an opening statement.

We'll begin with the Canadian Bankers Association, and then we'll have questions from the members.

We'll start with CBA, please.

Mr. Marion Wrobel (Vice-President, Policy and Operations, Canadian Bankers Association): Thank you, Mr. Chair.

Good morning. We are pleased to be here today representing the Canadian Bankers Association and our 54 members, including domestic banks, foreign bank subsidiaries, and foreign bank branches operating in Canada. We welcome the opportunity to talk

about taxation, and in particular how our strong, stable banks contribute to Canada and the Canadian economy.

Throughout the recent global financial crisis, Canada's banks remained strong. None needed a bailout and not one was in danger of failing. Today our well-managed, well-regulated banks continue to contribute substantially to the economic health of this country: employing more than 270,000 Canadians across the country; contributing approximately 3.4%, or \$55.5 billion, to Canada's GDP; paying \$11.1 billion in dividends to shareholders; providing financing to 1.6 million small and medium-sized businesses; and paying \$8.7 billion in taxes to all levels of government.

Banks pay all taxes due on their business income in Canada and other countries where they do business. Like many other Canadian businesses, banks are increasingly becoming export-oriented, growing their business operations abroad, with well-established subsidiaries in countries across the globe.

By competing globally and earning foreign income, banks not only bolster Canada's international reputation; they also generate important economic benefits here at home. These benefits include highly skilled, high-paying head office jobs and higher profits from which dividends are paid to Canadian shareholders.

It's important to remember that most Canadians are shareholders in Canada's banks through the Canada and Quebec pension plans, their employer pension plans, RRSPs, mutual funds, and direct investments.

We are pleased to have this opportunity to participate in the continuation of the finance committee's study on tax evasion. I would like to reiterate a couple of points we made during the CBA's appearance on this topic in the last Parliament.

First, Canada's banks do not promote tax evasion by their clients in Canada or in any other country. In fact, banks have comprehensive corporate governance regimes to ensure that the products and services they offer are not used for the purposes of evading taxes. Banks fully comply with the letter and spirit of all laws, regulations, and reporting requirements designed to detect and prevent tax evasion.

Second, Canadian banks do not evade taxes. They firmly adhere to the laws in Canada and in other jurisdictions where they carry on business, including those designed to deter illegal activities such as tax evasion and money laundering. Banks are subject to regular oversight by Canadian tax authorities and the banks' prudential regulator, the Office of the Superintendent of Financial Institutions.

As mentioned, CBA member banks have comprehensive governance and compliance regimes to prevent tax evasion. These regimes include management and board committees to oversee a bank's risk management practices; management and board committees to oversee regulatory compliance with applicable laws, including tax laws, securities laws, and other rules imposed by banking supervisors; "know your client" rules; and employee codes of ethics.

Banks are also subject to legislative requirements designed to control money laundering, which includes the proceeds of tax evasion. These requirements include reporting suspicious transactions, cash transactions above \$10,000, and international electronic funds transfers of \$10,000 or more; account record-keeping, including intended use of an account; and ascertaining the client's identity, including beneficial ownership information.

Banks take these responsibilities very seriously. Tax evasion is bad business, and reputable financial institutions want no part of it.

In terms of measures to prevent tax evasion, let me conclude by briefly commenting on these measures that have been taken to prevent tax evasion.

CBA members fully agree with the emphasis that the G-20 leaders have placed on tax transparency and the exchange of information as the best vehicle to combat tax evasion. This approach is working. The OECD's global forum for tax transparency now has 118 countries as members. As of December 2012, 90 countries have already substantially implemented the OECD's standard for tax transparency, which includes provisions to allow a country like Canada to obtain information about specific taxpayers if it has reason to believe the person is evading taxes.

Canada has taken a leading role in this initiative. Canada has built on its already substantial network of tax treaties by concluding tax information exchange agreements with 18 jurisdictions and is currently negotiating agreements with 12 others. Furthermore, Canada has already signed 90 tax treaties, almost all of which are fully compliant with the OECD standard.

• (0850)

We are pleased that the Canadian government has made this a priority, and we encourage the government to pursue more such agreements.

Thank you for your attention. We would be pleased to answer any questions from members of the committee.

The Chair: Thank you very much for your presentation.

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

Mr. Dennis Howlett (Executive Director, Canadians for Tax Fairness): Yes. Thank you for the opportunity to address this finance committee.

Today I'd like to speak to five points.

The first point I want to make is that the size of the tax havens problem, we believe, is much bigger than you might think, and it is growing. We are recommending that the federal government publish an official estimate of the size of tax evasion and avoidance problems. We feel that if policymakers and political leaders realize

how grave the situation is, it will spur them to take more decisive action.

I acknowledge that this is not an easy thing to do. It's partly why we want the government to do it, because it's hard for us to do that. We don't have access to the same kind of information.

However, let's look at some of the information that is available. There was a World Bank study done in 2010, entitled "Shadow economies all over the world", which estimated that Canada had a shadow economy of 15.7% of GDP, which is right in the middle of the pack of the OECD countries. Using figures from this World Bank study, the Tax Justice Network calculated that Canada's total tax revenue lost to all levels of government was \$79 billion a year. Now, this figure is not limited just to tax havens. It includes GST fraud and all the other kinds of tax evasion, but the key point I want to make is that tax havens are one of the key factors that help facilitate tax evasion.

The Tax Justice Network also published another exhaustive study last July, entitled *The Price of Offshore Revisited*. It put the estimate of wealth hidden in tax havens at between \$21 trillion to \$32 trillion. Assuming, conservatively, that global offshore financial wealth earns a total return of just 3% a year, and would have faced an average marginal rate of 30% in the home country, this unrecorded wealth may have generated tax revenues of between \$189 billion to \$280 billion per year. Given that Canada's economy is 2.8% of the global economy, we can estimate, based on this, that Canada may be losing between \$5.3 billion to \$7.8 billion a year to tax havens.

Statistics Canada figures confirm that tax havens are a huge and growing problem for Canada. A report last year on Canadian direct investment abroad, by country, shows that now 24% of Canadian direct investment overseas in 2011 went to the top 12 tax havens, up from 10% in 1987. This totals more than \$170 billion.

While there could be a debate about what this might translate into in terms of tax revenue lost, there is no question it would amount to billions of dollars.

The second point I want to make is that tax havens and secrecy jurisdictions facilitate crime, impoverish developing countries, and undermine the integrity of the tax system.

The problem with tax havens is not just limited to the loss of Canadian tax revenue. Tax havens play a key role in facilitating organized crime, the illegal arms trade, bribery and corruption, and the financing of terrorism. It is the secrecy of tax havens, not just the low tax regime, that is the main problem in terms of crime.

Banking secrecy rules in many of the tax haven countries allow criminals to set up accounts without having to declare the beneficial owner and move huge sums of money in and out without any scrutiny. This is the perfect system for money laundering. If the government is serious about its tough on crime agenda, it needs to take much stronger action to curb the use of tax havens. Jailing the street-level drug dealer for a few more years will do nothing to curb the drug trade if tax havens are free to help ensure that crime pays, at least for the kingpins.

By making it easier for larger companies and wealthy individuals to avoid paying their fair share of taxes, tax havens also undermine the integrity of the tax system itself, which relies on the principles of voluntary compliance and everyone paying their fair share of taxes. They also create an unfair advantage for large multinational corporations over medium and smaller businesses that don't have the same capacity to take advantage of tax havens.

● (0855)

The Chair: Mr. Howlett, you have about one minute remaining.

Mr. Dennis Howlett: Okay.

The third main point I want to make is that the capacity of the CRA to go after tax cheats using tax havens needs to be increased significantly. While tax havens will require a concerted international effort, there is much more that Canada could be doing itself. The CRA internal audit document revealed that tax practitioners believe that the CRA is not doing enough to catch or prosecute tax evaders. I expect we will learn more about what the real CRA capacity is in the upcoming Auditor General's review of the CRA.

The other point I want to make is that automatic information exchange would be a much more efficient way to go after tax havens than the bilateral tax information-sharing agreements.

Finally, Canada should be supporting suggestions of upgrading the UN tax committee to an intergovernmental body and be providing it with adequate resources. Tax havens are a serious problem for Canada and the global community. The Canadian government can and should be doing much more to tackle tax havens. It's an encouraging sign that this committee has taken up this study.

We trust that the finance committee will make some strong recommendations for action, and we hope the government will take these recommendations seriously.

Thank you.

The Chair: Thank you for your presentation.

We'll now hear you, Mr. Murphy, with your five-minute opening statement, please.

● (0900)

Mr. Richard Murphy: Thank you for asking me to speak this morning. I'm sorry I can't be with you in person.

Tax havens have an enormous impact on the world. They have by and large been ignored by academic researchers, whether in the fields of tax accounting or economics. The result is that the issue is still not as widely understood as it should be. It has fallen to the NGO community to remedy this fault. I've been working on such

research for a decade now. As one consequence of that, I am the co-author of one of the most cited academic books on this subject published by Cornell University Press.

Largely as a result of that work by NGOs, some of which Dennis Howlett has just referred to, the dangers of tax havens are now being appreciated. As the OECD has conceded this week, tax havens threaten the credibility of the world's corporate tax systems. They also now agree that tax havens create unlevel playing fields that distort markets, and that must inevitably lead to the misallocation of economic resources at cost to us all. You have, however, asked me to talk about tax havens and tax evasion.

Tax evasion is criminal activity. In the case of tax havens, it relates to the process of withholding information from a tax authority to which it is due, to ensure that tax owing to that authority is not declared or paid. Tax havens readily acknowledge that a decade ago they were at the core of much, but not all, tax evasion. Some tax evasion does not involve them. Quite clearly, paying the builder in cash has always gone on, and it will do so whether or not we solve the problem of tax havens, but serious, organized tax evasions do occur offshore and frequently. It's my contention that this remains the case now, as it was a decade ago, although tax havens, or secrecy jurisdictions, as I would prefer to call them, deny this.

I define tax havens or secrecy jurisdictions as places that intentionally create regulation for the primary benefit and use of those not resident in their geographical domain. That regulation they create is designed to undermine the legislation or regulation of another jurisdiction or country. To facilitate the use of that regulation, secrecy jurisdictions also create a deliberate, legally backed veil of secrecy that ensures that those from outside the jurisdiction making use of its regulation cannot be identified to be doing so.

I stress that it's not low tax rates that define a tax haven. Low tax rates are the legitimate choice of governments that can balance their books without resorting to higher rates. It is secrecy, and the fact that it is provided for the benefit of a person not resident within its domain, that defines a tax haven. That secrecy takes many forms. It includes not having to record the real ownership or management of a company with regulatory authorities. It comes from no accounts being required to be placed on public record, or even to be made available to authorities, because a no-tax regime does not require tax returns. It comes from tier upon tier of structuring in one secrecy jurisdiction after another to create impermeable opacity, often combining trusts, companies, and foundations. It can come from Swiss-style banking secrecy. It can also come from non-cooperation, whether that be outright refusal to accept information exchange agreements or by ensuring that, as the French have found, when information exchange requests take place—and they happen in tiny numbers, I would stress—the information that is supplied is of limited or no value at all. They discovered that was the case in more than 50% of all inquiries they made.

All these things happen, and it is not by chance; it is by design. The intention of tax havens is straightforward. With the aim of luring cash to their banks to support a local financial services sector that appears to create prosperity, secrecy jurisdictions sell their right to legislate for the benefit of those who do not live there and who wish not to pay their taxes where they're due, including in places like Canada.

The cost is enormous. Dennis Howlett has outlined some of the numbers. Most of that research I have been involved with. We do think there could be a minimum of \$21 trillion U.S. of assets held offshore for the purposes of evading tax. The tax lost could exceed \$200 billion U.S. a year. That is almost double the total worldwide aid budget, to put it in context and to link it to worldwide poverty. This cost, I stress, is imposed deliberately with the assistance of the world's financial services community, which is present in almost all tax havens.

• (0905)

The important point, though, is that this issue can be solved.

The Chair: You have about one minute, Mr. Murphy.

Mr. Richard Murphy: I suggest two simple solutions would work. First, we must have automatic information exchange of data on who has an interest in a bank account in a tax haven. We don't even need to know the income earned, just that someone has an interest in a bank, in a bank account, or some other structure in a tax haven. That's the smoking gun that will let your tax authority pursue the tax evader.

Second, we must have mandatory disclosure of the ownership of all companies and trusts on public record worldwide, in developed countries, in developing countries, and in tax havens. That's the minimum price of using these structures.

Do those two things and you will not solve all tax evasion, I readily admit, but I guarantee you will substantially increase your tax yield, and if that's what you want to do, I strongly recommend those two courses of action.

The Chair: Thank you very much for your presentation, Mr. Murphy.

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

Prof. Arthur Cockfield: Thank you for the kind invitation. Again, I'm sorry I couldn't be there today. I'm in Austin, Texas, this semester, visiting the University of Texas. I'm not at my home base of Queen's University. I hope the winter is going well in my hometown of Ottawa. I don't miss it, but anyhow, good luck. I know that it's a very tough winter this year.

I thought I would start by briefly outlining the distinction between tax evasion and tax avoidance, recap some of the background in Canada to try to gauge the extent of the problem, and then speak briefly about why it's a very difficult problem to fix.

Richard Murphy just touched on this. Of course, tax evasion in Canada is a criminal offence. It normally constitutes the purposeful withholding of information from the government concerning income or asset streams.

On the other hand, international tax avoidance is legal in the sense that it's non-criminal. Companies try to lower their global tax liabilities while complying with all laws, both Canadian law and the law abroad.

In my last testimony before this committee—the committee's hearings have been going on some time, and I congratulate you for your ongoing efforts—I mentioned some of the efforts here in Canada to gauge the extent of the problem. We have the Auditor General's reports from 2001 and 2002, wherein she reviewed a number of different aggressive offshore tax planning structures, along with revenue estimates of hundreds of millions of dollars of losses in annual revenues to Canada as a result of these tax avoidance strategies.

In terms of tax evasion, we have had a variety of scandals in recent years. A bank in Liechtenstein revealed through stolen data that a number of Canadian clients had anonymous accounts there. There was, of course, the UBS Swiss Bank scandal, when the U.S. Senate investigation revealed that UBS maintained a “Canada Desk” and would fly folks from Switzerland to Toronto to advise high-net-worth individuals on tax evasion strategies.

We have ongoing increased efforts by the CRA to increase audits: the so-called unnamed persons litigation. There's been an uptick in that activity. There's been an increase in revenues accessed through these audits of \$3.7 billion since 2006, and also an increase in the voluntary disclosures by Canadians. In 2009, for instance, there were 3,000 disclosures and a recovery of \$138 million.

The bottom line, as both speakers indicated, is that we really don't know in terms of tax evasion how much revenue is being lost.

The U.S. Senate investigation suggested that Americans may be evading \$40 billion to \$70 billion per year. If we take one-tenth of that, because of course we have one-tenth the population, I think we get to a figure similar to the one Mr. Howlett mentioned, which is somewhere between \$5 billion to \$7 billion.

But again, the reality is that nobody has a clue because, as Mr. Murphy mentioned, all of this occurs in secret—the evasion activities, at least. Folks, of course, don't want to disclose their identities or their holdings offshore when they're stealing money and committing criminal offences.

Turning to the international tax avoidance problem, the committee is likely aware that the OECD and G-20 released a report this week that called for enhanced international cooperation surrounding this issue. It's a very difficult issue to fix. Why? Well, sometimes I characterize Canada's international tax policy as being schizophrenic in nature.

On the one hand, we encourage firms to go abroad and to save tax moneys. We have a whole bunch of special rules that give breaks to our multinationals; we want them to go global. Tax academics find it a highly suspect policy goal to subsidize these wealthy multinationals. In any event, that's what our tax laws do. On the other hand, we want to have fair taxation between domestic firms and foreign firms. We have certain rules to encourage fairness there. But we have these two competing rules: we want to collect revenues from these multinationals, but we also want to give them tax breaks.

• (0910)

I'd like to leave the committee with one suggested reform in this area. It's something that I recommended to the Advisory Panel on Canada's System of International Taxation in my report for the Department of Finance and that panel back in 2008, which is to require our resident corporations to file with their tax return a schedule disclosing their consolidated worldwide revenue and income before taxes, as reported in the firm's financial statements. The schedule will additionally disclose a proportion of domestic and foreign-source revenues and income.

Here's the problem. The CRA gets a tax return by a Canadian multinational. It will disclose the Canadian taxes payable, but it won't disclose any information about the various foreign activities. In Canada, firms are not permitted to file consolidated worldwide income tax returns. This is not my idea. It's a reform proposal that you hear a lot about from the tax and accounting community, and I think it would be a good idea for Canada. It would give the CRA a lot more ammunition to go after these aggressive international tax planning strategies.

Thank you.

The Chair: Thank you very much for your presentation, Mr. Cockfield.

We will go to members' questions, and we'll start with Ms. Nash for a five-minute round, please.

Ms. Peggy Nash (Parkdale—High Park, NDP): Thank you, Mr. Chair, and welcome, gentlemen, to the finance committee. Thank you for your testimony.

The numbers that are being raised surrounding tax evasion and tax havens are absolutely astounding. At a time when governments are struggling to find the resources to deal with, in Canada, an infrastructure deficit of over \$100 billion, rising student debt, and many other problems, and struggling to balance our own books, it seems astounding that we would not make tackling tax havens an absolute priority.

Let me start with Mr. Wrobel from the Bankers Association. We've heard the OECD this week call for tough new rules to deal with tax evasion and tax havens. We've heard some witnesses call for that today. Do you agree that we need to have disclosure and eliminate the secrecy or reduce the secrecy that we're facing today, especially in the international banking sector, and that we need to have tough new rules to deal with tax havens?

Mr. Marion Wrobel: Let me start by essentially reiterating what we said in our opening statement. We do not support tax evasion and the Canadian banking system does not support tax evasion. We don't encourage our customers to evade taxes, and we recognize that there is an issue there.

But as we try to deal with a tax evasion problem, what we view as a problem, it's important that we be able to distinguish tax evasion from legitimate business activities of firms that operate in a global environment, including banks and commercial firms that have to be competitive. So while tax evasion is an illegal activity that we do not support—we encourage governments to take steps against that—as we go through these proceedings, let's make sure that we distinguish that from other forms of activity.

Ms. Peggy Nash: Thank you for that. Yes, I think we're clear that legitimate and legal tax avoidance is something that some would say is good prudent planning, but we're looking at well-known tax havens that have very small economies. Canadians, for example, have \$25.8 billion invested in the Cayman Islands and over \$53 billion invested in Barbados. That's massive compared to their economies.

I know my time is so limited. I do want to ask Mr. Murphy this. We heard witnesses from the Canadian finance department earlier tell us that they don't estimate the size of tax evasion or tax havens and what that cost could be to Canada. They have no idea what that could be, and they don't gather that data. Other countries do.

Can you explain why they wouldn't gather that data? That's my first question.

My second question is, what role can Canada play at the meeting this weekend in Moscow to push for tougher measures internationally to crack down, as the OECD recommends, on tax evasion and tax havens?

● (0915)

Mr. Richard Murphy: I am always bemused by governments that will not estimate what I call their tax cap, the difference between the taxes they should raise and the taxes they actually raise, based upon their domestic legislation.

We have that problem in the U.K., where the estimates of our governments that are available online and the difference is a factor of about three. They say it's \$32 billion and I say it's \$90 billion. We have that issue now in Europe, and I provided the European Union estimate.

Now let's be clear. These are estimates. Nobody can claim they're right. But if you have an enormous problem, you're not going to tackle it unless you have some idea of the scale and therefore the resources that you need to direct at it. I believe there is a collective mindset amongst tax authorities to deny the scale of the problem because they see it as some implicit criticism of their behaviour. It isn't. There is an issue out there that they need to accept and address, and they need to demand from you the resources to tackle it. I think that's the number one point.

What can you do to tackle tax evasion? Most importantly, you can demand automatic information exchange from tax havens to Canada. You can follow the precedence of the U.S.A. with its new FATCA—Foreign Accounts Tax Compliance Act—legislation and say that basically as a condition of your being able to bank in Canada, we will demand that if you operate branches in other places, you must supply us with information on the Canadian resident people who have accounts in tax havens, and we need that information.

This is a valuable precedent. It's going to have an enormous impact in Europe, and we're already seeing that because you can break some of the barriers to progress here. It's already being used by the U.K. to demand information from its tax havens, which previously it's been denied. So I think you need to look at that as the major way of going forward.

In addition, you need to set precedents and make sure that you have your own house in order with regard to making sure that beneficial ownership and accounting data is properly recorded in Canada on public record, so that when you demand it from tax havens, they can't turn around and ask, "Why are you asking for information from us that you don't actually have available in your own domestic authorities?"

Ms. Peggy Nash: Thank you.

The Chair: Thank you, Ms. Nash.

We'll go to Ms. McLeod, please.

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

Thank you to all the witnesses.

I think by virtue of the fact that we have been grappling with this issue for a number of years, and continue to aggressively tackle it, it shows that the government does recognize that it's important. Obviously, like all countries, I believe we have the opportunity to do a better job, but I think we've also made some remarkable progress in the last few years.

I do have a couple of points I want to quickly pick up on. Mr. Howlett made some comments about Statistics Canada and investment overseas.

Mr. Wrobel, we know tax evasion is an issue, but I think we just need to reconfirm that Canadians do have legitimate interests overseas. Can you just quickly respond to that?

Mr. Marion Wrobel: The number was cited about investments in places like the Cayman Islands and Barbados. Canada is a relatively small economy. To achieve economies of scale in our commercial firms and in our banks, we have to grow outside of our boundaries. In doing so, we have to compete globally. We have to find ways to make sure we are competitive.

A lot of these foreign investments are channelled through some jurisdictions to enable those firms to obtain financing on competitive terms, terms that are competitive with other institutions operating around the world, so that they can be successful. That's really one reason why they go that particular route.

In doing so, they enhance their own profits, which eventually flow back to Canada. They create jobs in Canada. As these dividend profits are distributed to shareholders, they are taxable in Canada, so they are incrementally enhancing tax revenue jobs in Canada and income in Canada.

● (0920)

Mrs. Cathy McLeod: Okay. I think we need to be clear about legitimate overseas use and what is clearly unacceptable, which is evasion and the use of tax havens.

I'd like to head to Mr. Cockfield next.

We've had a lot of talk about estimating this tax gap, and we've had some estimates out there. I certainly remember Jeffrey Owens indicating that it's out there, it's large, and you can estimate it. To get into detailed analysis is time consuming and expensive, and we'd really be best to focus on dealing with the issue.

I think in your last appearance you testified that it would be problematic due to the fact that it's illegal and secret. Would you still agree that there might be some numbers out there—they're big—but that as a government we should be focused on the issue of our systems and processes to deal with it? Is that fair to say?

Prof. Arthur Cockfield: Yes, it is very difficult to estimate the tax gap. There is a lot of ongoing research in this area, both in Canada and abroad, and there is an awful lot of research that looks at the use of tax havens for both tax evasion purposes and tax avoidance purposes.

I'm not sure I would say that it's not a useful exercise to try to estimate the tax gap. Here in the U.S. there is an annual exercise by both academics and by the government to try to come up with a tax gap estimate.

The problem is that the bulk of the missing revenues, I think most researchers would agree, would be as a result of domestic underground economic activity, particularly non-compliance in Canada with the GST: I'm a roofer and I only accept cash—hypothetically, of course—so I don't pay my GST. That's where I think a lot of the tax gap comes from.

Nevertheless, there could be more attention paid to this issue by Finance here in Canada.

Mrs. Cathy McLeod: Thank you.

This will be a quick yes or no from everyone. A lot of people have suggested automatic exchange. Is there anyone who disagrees that is a useful way of moving forward?

Maybe we can start with Mr. Wrobel.

Mr. Marion Wrobel: I agree.

Mr. Dennis Howlett: Oh, it's essential. That's the next step, as the witness from Finance said last week.

Mrs. Cathy McLeod: Mr. Murphy.

Mr. Richard Murphy: I agree wholeheartedly. It's got to happen.

Mrs. Cathy McLeod: Mr. Cockfield.

Prof. Arthur Cockfield: I agree, but it has to be carefully implemented.

Mr. Murphy, for instance, supported FATCA, the Foreign Account Tax Compliance Act, out of the U.S. in 2010. This is actually a huge controversy, of course, in Canada, and there is a side agreement under way between the Canadian government and the U.S. government. We have, for the first time in our history, an attempt by a foreign government to try to access unilaterally the personal financial information of Canadians.

This is a danger with the implementation of something like automatic exchanges in a haphazard way. There is no way that any foreign government should be able to access our personal information. That's just not the way to go.

So yes, I agree with automatic information exchange. I've written an article that also proposes a multilateral taxpayer bill of rights to protect confidential information that would actually help expedite the automatic information exchange process.

Mr. Richard Murphy: May I come back on that for one moment?

Mrs. Cathy McLeod: Actually, I just have a quick follow-up for Mr. Cockfield.

Do you see that as complementary to your consolidated tax returns, automatic...?

Prof. Arthur Cockfield: Yes. The consolidated return is directed more at the international tax avoidance problem. But it could all work together to more effectively protect the Canadian income tax base.

Mrs. Cathy McLeod: Thank you.

The Chair: We're out of time on this round, Mr. Murphy. I'm sure we'll come back to the topic later in the session, though.

I'll go now to Mr. Brison, please, for your round.

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

Thanks to our witnesses for joining us today.

The Tax Justice Network's Henry report from back in July 2012 contrasts intermediary havens, like the Cayman Islands, with

destination havens like the city of London or some other jurisdictions, including some in the U.S.

When it comes to dealing with international tax evasion, do destination havens require different policy tools than intermediary havens, and what would those tools be?

Mr. Murphy.

• (0925)

Mr. Richard Murphy: Yes, there is obviously a difference of emphasis required. I think this understanding of the role of the tax haven as a conduit is incredibly important. What "offshore" means in this context is "not here". It does not mean a geographical concept. It just means not here. What an offshore tax haven does is record transactions that take place somewhere else—in other words, not here.

Where do they actually take place? Look, there are \$400 billion U.S. of assets in Jersey—a U.K. tax haven in all but name—at this point in time. There are only 80,000 people there. Those 80,000 people have not got use for over \$5 million of assets each. It's impossible. Therefore, that money is somewhere else. That money is largely in London; it's a conduit to London.

What we require are that the major international financial centres like London, like New York, like Frankfurt, actually have to be much more suspicious about their sourcing of funding. What they're accepting is the assurance of an intermediary that this funding is from an acceptable source, when in fact they have to be much more rigorous about ensuring they really know the client involved.

Unfortunately, when it comes down it, London is at the epicentre of all of this. If you want to find a financial crisis in the world, I'm afraid you've only got to go to the city and there it is. The most-fined banks and the banks with the greatest reputations for money laundering are all based in London.

We've got a problem and we've got to clean up our act, and that requires better regulation and a change in attitude on the part of bankers, because I think it has been far too lax. It also requires us to think very hard about whether deduction of tax at source from these centres when payments are made to tax havens is required. It is on the OECD agenda this week to discuss the relevance between source and residence-based taxation.

Hon. Scott Brison: Thank you, Mr. Murphy.

Henry's report also suggested that non-compliance is contagious and that in fact increasingly middle-class citizens have access to vehicles and services to help facilitate international tax evasion. I'd be interested in any of the witnesses' views on the extent this is happening in Canada. Are we seeing the democratization, if you will, of international tax evasion through increasingly sophisticated but available services?

The Chair: Who would like to address that?

Mr. Wrobel, do you want to address that?

Mr. Marion Wrobel: Mr. Chairman, we have seen, I think, the democratization of financial advice and financial planning, of which tax planning is a legitimate part. I think the financial sector in Canada provides a wide range of services to Canadians to enable them to save efficiently, to have access to credit in an efficient manner, and to make the right decisions, all of which comply with the law in Canada and in other jurisdictions. So in terms of what is the difference between tax evasion and tax planning, again, we do not support tax evasion, but we do help our customers make sure they make good and efficient decisions.

Hon. Scott Brison: I wasn't accusing the banks, Mr. Wrobel, but I appreciate the answer.

Would any of the other witnesses like to comment on the degree to which other providers of services, less discriminating than the Canadian banks, have maybe been providing advice on tax evasion to the middle class?

The Chair: You have one minute.

Mr. Howlett, do you want to address this?

Mr. Dennis Howlett: There has been a discussion of evasion and avoidance. One of the problems here is that as there is more and more aggressive use of tax planning and so on, it means that financial institutions start doing things that are legal but really shouldn't be, in my view. CRA continually needs to close loopholes and develop tax laws to try to curb some of the most egregious kinds of tax avoidance, which might be legal now. But really there are a lot of loopholes that need to be closed. I've talked to CRA staff about this, and they would agree that it's a constantly shifting stage and that they have to be continually updating regulations to try to curb some of the worst of the tax planning.

• (0930)

The Chair: Thank you.

We're going to move next to Mr. Adler, please, for your round.

Mr. Mark Adler (York Centre, CPC): I'm third.

The Chair: Okay, sorry.

Ms. Glover, it's your turn.

Mrs. Shelly Glover (Saint Boniface, CPC): No problem.

Happy St. Valentine's Day, and welcome.

First of all, I need to correct the record, just to make sure we're all on the same page. CRA has appeared and they have indicated this is their number one priority. So for anyone who thinks it's not a priority, that's just not true, and that's why we've seen an increase of nearly 40% in the number of experts on the file.

And yes, more needs to be done, and that's why we're asking you for some advice. Because this has been suggested a number of times, I'd like to follow the same lines as Ms. McLeod in asking each of you what you think of the mandatory disclosure of company ownership.

Does anyone disagree with this move?

Mr. Wrobel, do you agree?

Mr. Marion Wrobel: We haven't really thought about that. I don't want to give an answer off the cuff, so we can get back to you.

Mrs. Shelly Glover: Mr. Howlett.

Mr. Dennis Howlett: It's mandatory disclosure, not just of companies but of individual accounts. The secrecy is a particular problem, more than just the low tax regime in some of these tax havens. So—

Mrs. Shelly Glover: But the specific question I've asked is right now there is secrecy. When you buy a company you can hide who you are, and then it's very difficult to determine—

Mr. Dennis Howlett: And this is—

Mrs. Shelly Glover: I have a number of other questions, but my simple question is, do you agree with mandatory disclosure?

Mr. Dennis Howlett: I agree fully, and particularly in terms of curbing crime.

Mrs. Shelly Glover: Very good.

Mr. Murphy.

Mr. Richard Murphy: Yes.

Mrs. Shelly Glover: And Mr. Cockfield?

Prof. Arthur Cockfield: I agree.

Mrs. Shelly Glover: Did Mr. Murphy get in on that?

Mr. Richard Murphy: Yes, I did. I do agree. I think it's absolutely essential. The price of limited liability is accountability, and that's what's missing.

Mrs. Shelly Glover: Okay. I just wanted to make sure that we had a discussion on that.

Mr. Brison was talking about compliance rates, and I know, Mr. Cockfield, when you were here last time you talked about Canada's compliance rates as being some of the highest in the world. Could you expand on that?

Prof. Arthur Cockfield: Cross-country comparative surveys are conducted every year that try to estimate things like government corruption as well as taxpayer compliance rates. Historically we Canadians have performed very well on these surveys. They suggest that the bulk of Canadians are law-abiding and properly disclose their earnings to the government.

Mrs. Shelly Glover: And I tend to agree with you.

Mr. Wrobel, can you take me through step by step? You said that part of the plan in many of our banks in dealing with some of the information that comes to them is ascertaining identity when some large transfers, etc., are coming in, cash exchanges over \$10,000, that kind of thing. What do you do to ascertain identity when this occurs?

Mr. Marion Wrobel: Say a new customer comes in and makes a large deposit. We clearly establish the identity of the individual.

Mrs. Shelly Glover: That's an easy one because the person is there, but most of this happens electronically.

Mr. Marion Wrobel: No, we're talking about opening accounts; these are done in person. We identify who is opening the account, the source of the income, and again, we're talking about relatively large accounts here. Try to understand—

Mrs. Shelly Glover: I'd rather focus on the transfers that are going offshore. I'm not concerned...and I wish the banks were here. To be frank with you, I'm quite disappointed they're not, because I would think they would probably be able to take me through step by step exactly what I'm talking about, but they refused to come. So I'm a little disappointed by that, but having said that, can you transfer to the larger problem we have, and that is ascertaining identities, particularly in transferring money offshore?

• (0935)

Mr. Marion Wrobel: Let me try to take you through the steps, and let me try to be helpful to the committee, as I represent the industry.

We identify who is opening the account and understand the source of the income. They have to be able to explain where it came from.

Mrs. Shelly Glover: So how did you identify the person who's not standing before you? That's what I'm asking you.

Mr. Marion Wrobel: The person has to stand before us to open the account. We're talking about opening an account.

Mrs. Shelly Glover: I'm not talking about opening an account; I'm talking about transferring money.

Mr. Marion Wrobel: Okay. Transferring money from one account to another is a legitimate function of a financial institution. It is reportable to FINTRAC if it is large, over \$10,000, or if there is any suspicion about the nature of the transaction. If the bank is uncomfortable with the transaction, the bank can say it's not going to do it. Again, reputation is very—

Mrs. Shelly Glover: How often does that happen?

Mr. Marion Wrobel: I work for the association; I don't... I couldn't tell you.

Mrs. Shelly Glover: That's why I wish the banks were here.

Mr. Marion Wrobel: I couldn't tell you.

Well, again, Mr. Chair, we're here representing the industry broadly. I'm going to try to answer all of your questions and try to be helpful. That's why we accepted to come before this committee.

Mrs. Shelly Glover: I appreciate that, and I don't mean to put you on the spot, but to define best practices, you have to ask the people doing the work.

Mr. Marion Wrobel: There are particular rules that are put in place by governments. There's a “know your customer”, there are the anti-money laundering rules, there are the FINTRAC reporting requirements, and there are also just the policies and procedures that individual banks put in place to make sure they understand what their employees are doing.

The Chair: Thank you.

Thank you, Ms. Glover.

[*Translation*]

Mr. Caron, you have five minutes.

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

I would like to talk about something Mr. Wrobel said. We have been talking about tax evasion. I think we all understand the

difference now between tax evasion, tax planning and tax avoidance. I think it is clear.

Tax evasion involves various methods or options. The transfer to a foreign account of over \$10 000 is reported. We understand that. However there are many different ways to transfer money to an area with legislation that allows the use of a tax haven. This includes, among other things, transfer prices.

So the problem is serious. One can't simply state that a transfer of \$10 000, \$100 000 or \$1 million is reported. Furthermore, many transactions are illegitimate and others are less so. Tax evasion is illegal. I think that the majority of Canadians feel that using tax havens is immoral. Given that one of the principles underlying the Canadian tax system is fairness, everyone paying their fair share, Canadians in general do pay their fair share and they want everyone to pay their fair share. I think one has to be cautious when providing answers.

I would like to talk about something that was only briefly raised by my colleague about the Foreign Account Tax Compliance Act in the United States, the FATCA. This is fairly controversial. I believe this was mentioned by most speakers. The Canadian Bankers Association is opposed to it, and understandably so. The main reason is that this is a unilateral action.

Could we use the FATCA's principles? It should be acknowledged that this is one of the first serious attempts to deal with the issue. If we were to take some of the main elements of the FATCA and apply them in a multilateral fashion, would that be an acceptable way of dealing efficiently with this plague?

I am putting the questions to all our witnesses, beginning with Mr. Wrobel.

[*English*]

Mr. Marion Wrobel: Mr. Chairman, my colleague, Darren Hannah, is really the expert on FATCA, so I'll let him answer.

The Chair: Go ahead.

Mr. Darren Hannah (Director, Banking Operations, Canadian Bankers Association): Sure.

Thanks for your question. I'm glad you raised it.

We've been saying since day one on the FATCA issue that ultimately what this is, is an issue of state. It has to be addressed from a state-to-state level through information exchanged between states. You can't try to enforce a relationship on financial institutions in one country reporting to a tax authority in another. So since day one our view has been that this is ultimately a matter that has to be resolved on a state-to-state level through information exchange. And ultimately it does seem to be going that way through the intergovernmental agreements that are being created.

[*Translation*]

Mr. Guy Caron: I would like to pick up on that before the other witnesses speak about the FATCA.

I understand what you are telling me, however, currently, Canadian financial institutions are under the obligation of reporting this to the Canadian government. If we had multilateral agreements with these countries, that would be the equivalent. There would have to be information-sharing.

Refusing to share that information is a rather feeble excuse for avoiding doing what is necessary to acquire the information. Tax evasion exists and it is a problem, as we have seen, precisely because of this inconsistent information.

• (0940)

[English]

Mr. Darren Hannah: I think what you're talking about is something that was raised earlier, which is: should we move to a system of automatic information exchange? I think what we said is, from our point of view, that would be a good thing.

[Translation]

Mr. Guy Caron: I would like to hear what the other witnesses have to say about applying the FATCA multilaterally.

[English]

The Chair: Okay. There's about a minute and a half.

Mr. Howlett, do you want to comment?

Mr. Dennis Howlett: Yes.

The problem with the bilateral information exchange agreements

Prof. Arthur Cockfield: Yes, sir.

The first thing I'd like to point out is that we already have automatic information exchange between Canada and the United States with respect to cross-border portfolio interest income. If I open a bank account in New York City at the Bank of America, they report this automatically to the IRS, and the IRS exchanges this information automatically with the CRA.

There are dozens of examples of these automatic information exchange processes around the world. This is yet another problem with FATCA. It doesn't account for the fact that we have this enhanced cooperative measure already in place between Canada and the United States.

Having said all that, to respond to your question, I think some of the principles behind FATCA could be imported to a broader multilateral agreement—again, automatic information exchange. Also, importantly, we'd have to have a system to ensure that taxpayer identification numbers were relatable by each country; in other words, you can tie the income to an actual human being. Combine that with protections for taxpayer rights, traditional protections offered under Canadian law, and I think that would be a very good idea.

I outline some of this in a 2001 article in *Minnesota Law Review*.

Thank you.

The Chair: I'm trying to be fair on time. We're well over Mr. Caron's time, but I'll go to Mr. Howlett and Mr. Murphy also.

Perhaps colleagues could ask a briefer question and target it to one witness.

We'll go to Mr. Howlett and Mr. Murphy, briefly.

Mr. Dennis Howlett: The problem with bilateral information exchange agreements is that you have to know a lot of information first before you can ask for information. Because of secrecy, it just doesn't allow the Canadian government to get very far, in a practical way, with these bilateral information exchange agreements. The automatic information exchange, I think primarily through regulations of financial institutions...rather than putting the burden on individuals, like FATCA does.

So the principle, yes, but some of the details of FATCA are problematic.

The Chair: Thank you.

Briefly, Mr. Murphy, please.

Mr. Richard Murphy: Look, the first principle of a tax system is to find the tax base, what you're going to tax. At the moment, the problem is that we can't find the tax base.

My design for an information exchange system would simply be saying that this person has an account in this tax haven and Canada needs to know that fact. If there were a simple exchange on the existence of the interest in the account, the Canadian tax authorities could then say, "But it's not on your tax return. Why isn't it on your tax return? We need to know." That's the smoking gun.

About 90% of the benefit of automatic information exchange would come from compliance. People would know that they could be found out if just that information were exchanged.

The Chair: Thank you.

We'll go to Mr. Adler, please.

Mr. Mark Adler: Thank you, Chair.

I want to ask two brief questions, and perhaps, Mr. Cockfield, I'll just focus on you.

It was mentioned earlier, and we all know, that Canada has very high compliance rates. Canada seems to be doing something right. In perhaps a minute or less, because I do want to go on to something else, could you tell me what would be the fundamentals of maintaining a high compliance rate?

Prof. Arthur Cockfield: One important thing that tax researchers always talk about is maintaining high taxpayer morale. This is why the international issue is so very important. To the extent it gets out in our media that there are a bunch of tax cheats putting their money offshore and not paying taxes, that could eventually demoralize the domestic taxpayers, and we'd see a reduction in their compliance rate.

So it's very important for the Canadian public to perceive the system as being fair and transparent.

Thank you.

• (0945)

Mr. Mark Adler: This morning the Chancellor of Germany, Angela Merkel, gave a speech in Germany in advance of the G-20 finance ministers meeting in Moscow.

She said, and I'll quote:

It's not right that giant global companies have huge sales here [in Germany], in all of Europe, in the United States and elsewhere and then only pay taxes somewhere in a tiny tax haven.

That's why we're going to fight to finally put an end to tax havens at the G8 meeting this year in Great Britain. The whole world will have to fight for it, otherwise we won't accomplish that.

We also know that the OECD, just earlier this week, gave an urgent call for overhauling corporate tax rules.

First, Mr. Cockfield, what would you say is driving this determination?

Second, although you only have a minute or two to talk about this, if the G-20 finance ministers came to you and said, "Design a regime that would accomplish this for us", what would that regime look like?

Prof. Arthur Cockfield: We're dealing with the issue of international tax avoidance and the usage of tax havens. This is a very tough problem. As I mentioned, the Canadian tax laws have a multitude of provisions that subsidize, effectively, international income. We don't give a break normally to the domestic income generated by our multinationals, but we do not tax the profits of the active business of our multinationals earned abroad.

I agree with the OECD and the G-20 that the best course would be enhanced cooperation and then some kind of worldwide agreement on more restrictions on domestic tax laws that permit these subsidies. The OECD tried this in 1998 through its harmful tax competition project, later renamed the harmful tax practices project. I think they made a lot of progress there. But the business lobby is very powerful. They will not like any reform efforts that cut down on their ability to use these very favourable tax provisions on the argument that they need it to compete on a global basis.

So you've got your work cut out for you.

Mr. Mark Adler: Mr. Cockfield, tell me, what's in it for the tax haven?

Prof. Arthur Cockfield: Currently, as mentioned, they operate more or less as a conduit. Take Barbados as an example. We've had a treaty with Barbados since I think 1981. It's our third-largest destination for foreign direct investment going abroad. This is a wonderful country of about 300,000 people. It's not necessarily, obviously, a consumer market. Our companies base holding companies there so that they can bring the profits from international sales back to these holding companies. They sit there, and these profits can be brought back to Canada on a tax-free basis.

So they're used by our multinationals to lower their global tax liabilities—

Mr. Mark Adler: Sorry to interrupt, Mr. Cockfield, I get that part, but what's in it for Barbados?

Prof. Arthur Cockfield: Well, Barbados has a thriving financial industry that collects millions of dollars in fees. From my experience

in working in Barbados at the University of the West Indies, it's a very sophisticated tax-advising group. That's their livelihood. It's roughly 15% of their GDP, the financial industry, and it's a very important part of their economy.

It's the same with respect to certain other countries. Of course, the biggest tax haven by far in the world—a half to one-third of the world's tax haven moneys—is Switzerland alone, but important other players exist in the Caribbean, the Isle of Man, and in other places, of course, throughout the world. They make a lot of money off this.

Mr. Mark Adler: How do we disincentivize these jurisdictions?

Prof. Arthur Cockfield: There have been discussions in Australia, in particular, to give them some incentives—either outright direct grants, make it easier for folks in certain countries to attend Australian universities—to reduce their tax haven financial industry work. To me, that's not very realistic.

Again, if you think about it, you're a banker in Barbados, this is your livelihood, and you've probably made some relatively decent money through this work. So why would you give it up? This is important work. For a major player like Switzerland, their raison d'être is to serve as one of the big financial centres for the world. But we're part of the problem. Mr. Murphy mentioned London. A lot of the world's illegal moneys are deposited in London bank accounts, maybe rerouted through the Cayman Islands or somewhere else.

So the whole world is a problem. We're all benefiting. Certainly the banking industry, in particular, derives massive benefits. I'm talking about the Canadian banking industry, which has affiliates all throughout the world, particularly in all of these tax havens I just mentioned. A lot of money is being made.

• (0950)

The Chair: Unfortunately, you're out of time, Mr. Adler.

Thank you very much.

[*Translation*]

Mr. Côté, you have the floor.

Mr. Raymond Côté (Beauport—Limoulu, NDP): Thank you, Mr. Chair.

Mr. Cockfield, I would like to ask you a question about transfer prices involving corporations.

Last fall, the Supreme Court heard the case of Canada versus GlaxoSmithKline Inc. The Department of National Revenue alleged that the company had abused the practice of transfer prices between companies. Glaxo Canada was purchasing ranitidine, the active ingredient in the drug called Zantac, from its Swiss subsidiary. The prices varied between \$1,500 and \$1,650 per kilogram. At the same time, generic drug companies were purchasing the same product on the international market at prices varying between \$200 and \$300.

GlaxoSmithKline Inc. won its case before the Supreme Court on the grounds that the difference between the price paid on the international market by generic drug companies and the price paid by Glaxo Canada to its Swiss subsidiary was justified because of the intellectual property that led to the launch of Zantac and the right to use of Zantac.

In its ruling, the Supreme Court stated the following:

Section 69(2) requires the court to determine whether the transfer price was greater than the amount that would have been reasonable in the circumstances, had the parties been dealing at arm's length. If transactions other than the purchasing transaction are relevant in determining this question, they must not be ignored. Section 69(2) does not, itself, offer guidance as to how to determine the "reasonable amount" that would have been payable had the parties been dealing at arm's length.

In your opinion, is this simply a problem of defining what this famous competitive pricing is? If not, is it the method itself that is ill-adapted, as Mr. David Rosenbloom, a witness who appeared before this committee, stated last week?

[English]

Prof. Arthur Cockfield: Transfer pricing, of course, is a very complex issue. Just out of interest, I'll mention that here in the U.S. they had a similar transfer pricing case against Glaxo—a very similar structure with the Swiss affiliate and Zantac, and so on—and Glaxo settled this matter and paid the U.S. government \$3.4 billion. This was roughly 10 years ago, to give you a sense of the dollars at stake.

Again, on a similar cross-border structure, we lost the case at the Supreme Court, as you just mentioned.

The case was based on section 69. That's now section 247 of the Income Tax Act, so that provision has actually changed. Unlike certain countries, Canada has chosen to go the very short version of the transfer pricing laws and so-called arm's-length pricing laws. The CRA produces an administrative bulletin, an information circular, that backs up these laws in great details and suggests how the law ought to be interpreted.

We can question whether that case is particularly relevant, because the law has changed since old section 69.

My recommendation elsewhere is that our Income Tax Act should more carefully prescribe what is meant by fair market value that is an arm's-length transaction to discern the appropriate transfer price between related entities based in different countries.

Glaxo is a very controversial case. Some folks say the government just didn't use the proper argument, and that's why the case was lost. In other words, the courts interpreted the section properly, but it wasn't argued that well before the initial Tax Court of Canada as well as the subsequent appeals.

Anyway, Glaxo is a real controversy. I think the transfer pricing laws could be tweaked to do a better job.

● (0955)

[Translation]

Mr. Raymond Côté: Very well.

I would like to put one last question to Mr. Wrobel on the bilateral information-sharing agreements.

The Organization for Economic Co-operation and Development has been very critical of this method and has been supporting a multilateral approach as we head in to the Moscow meeting to consider this issue. Do you support a multilateral approach?

[English]

Mr. Marion Wrobel: Again, my colleague is the right person to answer that.

Mr. Darren Hannah: Absolutely. From our perspective, Canadian banks operate on an international platform, to the extent that you can have international harmonization as opposed to bilateral arrangement. That's a good thing.

[Translation]

Mr. Raymond Côté: Very well.

Thank you, Mr. Chair.

[English]

The Chair: Mr. Murphy, do you want to comment very briefly on Monsieur Côté's questions?

Mr. Richard Murphy: I think the transfer pricing issue is an extremely complex one. The problem with transfer pricing is that it is fundamentally intellectually flawed, because you're trying to tax each company as if it were independent of all others inside the same group of which it's a member. But the reality is that they are only members of the group because they make more profit that way. Therefore, you guarantee that you will undertax the profits of a multinational group by applying arm's-length transfer pricing. The inevitable consequence is that some money will always float off untaxed to a tax haven. It is actually a system that cannot be tweaked to be put right. It is beyond redemption.

We need to move towards a unitary basis for taxation for international multinational companies, and we need to move to an accounting system called country-by-country reporting, and I declare an interest as I designed it, which would actually provide information for each country where a multinational trades—what its trade is, what its profit is, and so on—so we can actually apportion profits fairly.

The Chair: Thank you.

We'll go to Mr. Hoback, please.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

Thank you, gentlemen, for being here this morning. It's probably this afternoon for you, Mr. Murphy.

This study has been very interesting because it has many dynamic aspects to it—different branches, different levers—that come into play here.

The one I'm going to explore with you guys is a combination of how we can make the system better and what tools we need to provide CRA, the RCMP, and the banks to get better reporting processes and actually more convictions and more disclosure, or voluntary disclosure by threat of convictions.

I'm looking at the mandatory disclosure of ownership of companies and individual accounts. I know you guys have talked about that.

I'm just kind of curious. In the banking sector, when a company sets up a bank account, do you know who the shareholders are?

Mr. Marion Wrobel: We'll get back to you in writing on that.

Mr. Randy Hoback: I'm curious, because if you have a multinational company, you will have shareholders coming in and out of that ownership with different classes of shares. I don't think they're showing up on your ownership sheet. How would you report that? That would be my question there.

The need for transparency is something I think everybody would talk about as being important. How do you properly do that, and in what fashion do you do it to make it manageable so that it's actually useful? The other thing you can do is give too much information, but if it's of no use, it doesn't accomplish anything.

Mr. Howlett, you talked about CRA closing loopholes. One thing we've done is to give CRA more tools so they can close some of those loopholes. I agree with you that we need to close more loopholes, and we need to keep looking at new technology, such as payment by phone, and how that's going to impact money moving around the world. It may not even go through a bank at some time in the future. It may go through cellphone companies or other companies that are handling those types of transactions. So you need to have that technology always being updated by CRA and the RCMP.

Mr. Dennis Howlett: Could I just respond to one question here?

I don't question that Canadian banks are probably pretty careful in terms of beneficial ownership accounting in Canada, but I would question what they do in their subsidiaries in tax haven countries. Even if they conform to the rules in those countries, they may not need to collect that information there, even though I'm sure they do here in Canada.

Mr. Randy Hoback: You actually read my mind, because I was just going into a situation where you have a Canadian bank operating in Canada and operating in the U.S. under the same name. I set up a bank account in the U.S. and I thought it would be very easy to move money back and forth. I found out they are two totally separate entities when it comes to actually working with either one of those banks.

Mr. Hannah, how would you accommodate that? In operations from country to country, how do they report that type of information among themselves?

• (1000)

Mr. Darren Hannah: I'm sorry, you're going to have to rephrase the question because I'm not following.

Mr. Randy Hoback: We have different processes. If there is a Canadian bank that has subsidiaries around the world, what are the obligations for those subsidiaries to report back to the Canadian branch on things that may be of suspicion, such as large amounts of money moving around or...?

Mr. Marion Wrobel: I would say that the operations in all of those jurisdictions are subject to the similar kinds of laws in the United States and in Canada. Reporting anti-money-laundering is an international initiative.

Other requirements might be somewhat different from one jurisdiction to another. The key is that the institution in the jurisdiction in which it's incorporated follows the laws of those jurisdictions. Sometimes the laws of those jurisdictions include privacy laws, so there is a bit of a fine balance there.

But there are a number of global initiatives for which the reporting requirements would be pretty similar from one jurisdiction to another.

Mr. Randy Hoback: In that situation, even if we were to come in with a variety of transparency laws here in Canada, they may not be enforceable in other jurisdictions if we don't have that type of tax agreement with that jurisdiction. Is that fair to say?

Mr. Darren Hannah: I think what you're alluding to would be for Canada, in effect, to try to do its own variant of FATCA, and for a number of reasons that have been articulated, that simply hasn't worked.

Mr. Randy Hoback: Mr. Cockfield, from the U.S. perspective, do you think FATCA has worked as well as originally anticipated?

Prof. Arthur Cockfield: It hasn't been implemented yet. I think the implementation date was delayed until January 1, 2014. I think the joint committee estimated it will raise \$8 billion, which isn't really a whole lot of revenue considering the global spread of this new law and the compliance costs that are going to have to be incurred by Canadian and other foreign banks. So the jury's still out on FATCA.

Mr. Randy Hoback: It's interesting. I have an elderly couple in my riding who will be subject to that. She hasn't lived in the U.S. for probably 45 years. They are retired farmers, and they have nothing to do with money laundering or hiding any assets or anything else, but because of the penalties that are involved in disclosure and the uncertainty of the penalties, it creates a lot of stress. If you asked them about FATCA, they would say it's none of their business. These are legal Canadian citizens who have done nothing wrong.

So how do you get that balance right? I guess that would be my question.

Prof. Arthur Cockfield: It's a very difficult problem. I hear from these folks all the time who are law-abiding Canadians. Some are so-called accidental Americans; maybe their parents were there on vacation. Anyhow they don't owe any U.S. taxes, but they may owe hundreds of thousands or potentially millions of dollars in penalties. That's the worst part of FATCA, I think.

The Chair: Thank you, Mr. Hoback.

We'll go to Mr. Rankin, please.

Mr. Murray Rankin (Victoria, NDP): Thank you, Chair.

Thank you, everyone, for your testimony today. I would first like to ask a question to Mr. Howlett and then a second one to Mr. Murphy and others.

I think everyone would agree that we have a responsibility as Canadians to protect our tax base. I'm reading your report, Mr. Howlett, and on page 3 you cite a report, at footnote 8, by the CRA in which an internal audit document revealed, and you quote:

...tax practitioners believe the CRA is not doing enough to catch or prosecute tax evaders and that those engaging in non-compliant behaviour believe that the risk of getting caught for evading taxes is remote.

That study you cite is from 2010. Are you aware of any subsequent studies? Are you aware of whether the situation has improved in recent years?

Mr. Dennis Howlett: I have talked with some CRA staff on an informal basis. The stories I hear would confirm that the situation has not changed. I've heard stories that CRA is so understaffed that it can't even open up some of the automatic information they get from the information exchange with other countries. Some of that information is not even being looked at.

Also, there is a problem of turnover. When they try to negotiate a settlement with a large company or an individual, the law firms representing those companies offer, in the end, to hire away the CRA staff at multiple times their salary. That kind of thing happens.

It is still a serious problem. I would agree it would seem that the international division has not been affected by the layoffs that were announced for CRA, but I really question whether the resources have been increased adequately to deal with the huge and growing problem.

•(1005)

Mr. Murray Rankin: Mr. Murphy, this is a question for you, if I could, sir.

You cited the OECD report that was released just a couple of days back, arguing for a stronger international cooperation effort with respect to corporate taxes, arguing that multinational corporations get breaks because of their ability to use tax havens vis-à-vis smaller companies. Do you think there is sufficient attention to multinationals in various countries?

In other words, is the CRA in our country going after the low-hanging fruit when it goes after individuals, voluntary disclosure, etc., and ignoring the perhaps more difficult but likely more lucrative efforts it would find if it were to go after the multinationals?

Mr. Richard Murphy: My experience is not in Canada, so I can't answer for the CRA. I can answer in the U.K. context, and some other European country contexts, which I know.

I would certainly say my experience here is that they're doing exactly as you've described. There is a much higher probability of being audited and investigated if you're a small company rather than a large company. We have a history in the U.K. of making what appear to be somewhat cozy deals with large companies, perhaps the exception, curiously, being GlaxoSmithKline, but by and large, we have had a history that has given rise to a lot of public anger.

We've had our House of Commons holding a lot of hearings into companies such as Google, Amazon, and Starbucks, despite which, and despite everything that is being said about the G-8, nothing they have done, which has given rise to a lot of public anger, will be anywhere touched by the arrangements on tax avoidance that I believe are being brought forward by our U.K. government. To get this right, we're dependent upon changing the rules on things like "permanent establishment", which is a concept within the OECD double tax agreement. That has been heavily abused.

I discuss this extensively, by the way, in a book that you can get on Monday. It will be published by then. This is an ongoing issue that we really need to address.

Mr. Murray Rankin: Could I ask others to answer that question, such as Mr. Cockfield, for example?

The Chair: Very briefly, please. We have about 30 seconds in this round.

Prof. Arthur Cockfield: Oh, okay.

Yes, I agree that there's insufficient prosecution, especially for offshore tax evasion. It's very tough with the *mens rea*, the guilty mind requirement.

I don't think our CRA has been easy on multinationals. If anything, the audit rate is higher for the businesses, as I understand it, than these individual prosecutions for international tax evasion. I think the CRA has had more resources given to them in the last half-decade. They could use more. There's no question about it.

The Chair: Thank you.

Thank you, Mr. Rankin.

We'll go to Mr. Van Kesteren, please.

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

Thanks to all of you for appearing before us.

I want to set the record straight, just briefly. I think this is important. Our government has increased the number of CRA experts on the file by roughly 40% from the last year of the Liberal government.

Since 2006, the CRA has audited thousands of cases and has identified more than \$4.5 billion in unpaid taxes through our efforts on aggressive international tax planning. This compares to \$173 million in the last year of the Liberals.

Volunteer disclosure related to offshore accounts has nearly tripled since 2007. Thanks to the efforts of this government, we are party to over 100 tax agreements. We need to have that fact established.

There's something else that I want to talk about just briefly.

Mr. Howlett, did you say the estimates are that we are losing approximately \$5.3 billion to \$7.8 billion a year? Could I have just a brief answer? I have to wrap up.

Mr. Dennis Howlett: Yes.

Mr. Dave Van Kesteren: Okay. I want to put that into perspective.

Not to minimize this, but I did some quick calculations. I come up with about 1.5% to 2% of our budget. To draw a comparison, we lose about that amount to our tobacco industry, which I'm not suggesting is where we should be gaining revenue, but we have taxed our tobacco so high that it is now more lucrative to sell tobacco than it is marijuana.

The reason I'm going in that direction, Mr. Cockfield, is that I think I heard you mention something. Maybe you can just give me a brief answer on this. How does this compare, this \$5.3 billion to \$7.8 billion, to tax cheats such as roofers who don't pay their GST? Just briefly, do we have any estimates on that?

•(1010)

Prof. Arthur Cockfield: I don't know the answer offhand. I just suggested that from my understanding a much greater problem would be the domestic non-compliance tax gap, not the international one.

A voice: Yes, agreed.

Mr. Dave Van Kesteren: Okay. The reason I'm going in this direction is that I'm wondering if there is a... I wish we had some economists here, because I'd love to see the breakdown. I have it in my mind, but I don't have the actual statistics of where our tax revenue comes from.

Is there a correlation between countries that have large numbers of tax cheats and high taxes? I say that because we have in this country a federal government that has reduced corporate rates to 15%, and we've encouraged provinces to follow suit so that we can start to see a tax rate that goes around 25%... I think what I got from Mr. Wrobel, to some extent, is that most people will pay their taxes.

I think we all saw the news about the French actor who decided to become a Russian citizen because I think the French government....

Mr. Murphy, I'm going to go to you with this question because you have some incredible problems in Europe with some cash issues that governments are needing.... I guess I would ask you, who's the bigger crook? Is it the government trying to get 70% out of this French actor, or the guy who says, "Listen, I'm not going to pay that, so I'm going to another country"?

Mr. Richard Murphy: Well, I'm a democrat. I believe in the power of the ballot box. President Hollande, I think, went with a mandate to impose that tax, so I can't see how I can say he's a crook when he actually got an electoral mandate to impose it.

So I don't see that issue at all, and never have done. I do think the person who has moved has the right to move, if he can legitimately do so. I would make residence a much stickier issue than it is at present, and my opinion on that is something the U.K. government could certainly listen to. But we do have problems in Europe, and I've looked right across Europe, at all European countries, at levels of tax evasion, and I would say there is no correlation between tax rates and tax evasion.

There are cultural—

Mr. Dave Van Kesteren: Mr. Murphy, I don't have much time.

Mr. Cockfield, would you agree with that?

I said that represents about 1.5% to 2%. If you look at other jurisdictions across the world, is there a correlation, do you think, between high-tax-gouging countries and those that ask for a reasonable rate?

Prof. Arthur Cockfield: I don't know the answer offhand. As Mr. Murphy indicated, some countries, for whatever cultural, historical, or political reason, such as Italy, Spain, Russia, and Mexico—I hope nobody has heritage in these areas. There is a lot of non-compliance even though in certain of those countries the tax rates are not high at all, especially Mexico, for instance.

So I'm not sure if there is a correlation. As soon as you get up to, say, 90% and above, then certainly we would see a correlation. Let's

keep in mind that up into the 1950s, for instance, the highest rate here in the United States was something like 90%. So historically rates were higher than they are today.

The Chair: Thank you, Mr. Van Kesteren.

Mr. Jean, please, for your round.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair, and thank you to the witnesses today.

I was astonished, Mr. Howlett, until Mr. Van Kesteren brought forward the information. We did hear testimony, and I'm not sure if you heard the first day...as Mr. Van Kesteren said, an amount of \$173 million was identified in 2005, as far as tax cheats are concerned. Since that period of time, somewhere in the neighbourhood of \$700 million has been identified per year. That's some four times as much under this government as the last government.

We have taken great steps, and I agree with you that there are amazing amounts of steps to go forward, and of course international agreements seem to be that....

Mr. Wrobel, I understand that to open a business bank account in Canada, people have to submit their articles of incorporation to the bank before they can do so. They have to submit that over 50% of the company is held by Canadian residents or Canadian directors, and in fact the articles of incorporation include controlling shareholders, the classes of shares, and things like that. So my understanding is that you can't open a bank account in Canada, at least at any of the chartered banks, without that information going to the bank so that they know who in essence is in control.

Is that fair to say?

•(1015)

Mr. Marion Wrobel: I'm not familiar with that.

Mr. Brian Jean: You're not familiar. It is the case.

Is there any advantage for banks to cooperate? For instance, Canadian banks that have holdings in other countries.... I believe in the carrot and stick analogy: you either use a carrot to get somebody to go in one particular way or you use a stick. Those are the only two methods that I've ever seen to be effective.

In this particular case, is there any carrot available for Canadian banks that actually cooperate, not only with regard to tax cheaters but to people who want to be tax cheaters? For instance, people come forward to bank managers and say, "Listen, I need to find a way to hide these funds or to transfer these funds out of Canada into your bank so that I can avoid those taxes."

Mr. Marion Wrobel: I think the big carrot is the fact that Canadian banks want to comply with the law. Legal risk is something that they are very mindful of, and also their reputation.

I want to take you back to the global financial crisis. We always ask ourselves, why did Canadian banks do so much better than others? It's because they managed their risks. There's an element of risk to tax evasion. If we encourage, if we facilitate, those kinds of behaviours, there is a great deal of risk that the bank is subjecting itself to—

Mr. Brian Jean: I understand that, but with respect, as long as you abide by the laws in Canada and you abide by the laws, for instance, in the Cayman Islands, does that satisfy you, or does it satisfy your members? Do they actually identify people who approach them to try to avoid taxes? There is a difference between the laws in Canada and the laws in other areas, and obviously they encourage you to invest in those areas, but with what's happening with the global economy, we're reaching out. We're getting the tax treaties—as has been mentioned, some 100 agreements. We're moving forward with that aggressively to make sure we get rid of those tax cheaters, those tax avoiders.

Mr. Marion Wrobel: We've heard today examples of banks that have been cited in the press for that kind of behaviour—clearly in support of tax evasion. We do not want to have our name in the press.

Mr. Brian Jean: Do your members have a policy to report people who try to avoid tax?

Mr. Marion Wrobel: Again, I couldn't tell you about the—

Mr. Brian Jean: Could you provide information to the chair as to whether there is a policy for the banks in Canada to report people who are trying to avoid taxes, not just in Canada but in other countries where you operate?

Mr. Marion Wrobel: I think I said in the opening remarks that individual banks have procedures in place whereby they monitor the behaviour of their employees—

Mr. Brian Jean: I understand that, but I don't have enough time, to be honest. I'd ask you to provide information to the committee concerning whether or not they do exactly that: report people who attempt to do so, and not just people who do so. Obviously, there is a difference.

The other question I have is, who are these tax cheats? We've heard that there are large multinational corporations, medium-sized enterprises across the world. Who are they? Are they the largest companies? Are they the smallest companies? Are they individuals? Who are they?

Actually, I would ask Mr. Cockfield to respond to this.

Mr. Cockfield, could you identify what would be your norm?

Prof. Arthur Cockfield: Are you referring to tax evasion or tax avoidance?

Mr. Brian Jean: I'm talking about tax evasion.

Prof. Arthur Cockfield: Obviously, there is the criminal element: folks laundering money, using the conventional financial system to clean up moneys derived, let's say, from the illicit sale of narcotics. Then you may have the business person who has stashed away cash in millions of dollars.

Because of the secret nature of the system, I unfortunately can't give you what I think would be a generic profile. I think it would be

all sorts of folks—very wealthy, mid-level wealthy—but again, it's impossible for me to estimate.

Mr. Brian Jean: Mr. Murphy, do you know, or would it be all speculation as well?

Mr. Richard Murphy: The report we produced last year, *The Price of Offshore Revisited*, looked at this issue and basically said that at the end of the day the biggest problem is with high-net-worth individuals. Those are people who have free assets of more than \$1 million.

Actually, the real core problem is with those who will have assets of much higher value than that, who will be relocating assets using complex structures. They will be assisted through the financial services system to hide the value of those assets in a way that either avoids or sometimes will evade. That will also depend upon the person's own priority; avoidance tips into evasion when you don't disclose.

But it's individuals more than corporations. Large corporations don't evade; they avoid. I don't think we should be presuming that there's a culture of evasion in large companies. I don't think that exists.

• (1020)

Mr. Brian Jean: Thank you very much.

The Chair: Thank you, Mr. Jean.

We will go back to Ms. Nash, please.

Ms. Peggy Nash: Thank you very much.

I want to talk specifically about tax havens. I'm going back to some of these small places, which have very small economies and where there are large amounts of money invested.

Over the last 10 years, Canadians have invested about \$390 billion in Barbados, which has a population of 284,000 people. They invested \$175 billion in the Cayman Islands, which has a population of 55,000. Obviously, some of that money is absolutely above board and legitimate. But the money that is not legitimate means that the average middle-class family gets hammered and ends up paying more in taxes, plus getting less in government programs and services, than they would otherwise get if this money were adequately reported and taxed.

We know that there was some disclosure, through whistleblowers, of the Swiss banks. That brought money that was disclosed in Germany, and a number of Canadians were found to be holding money in Swiss bank accounts.

Aside from having whistleblowers, my question is, how effective are the TIEAs in tracking down and finding this kind of information? What record of compliance have we had, and what moneys have been found and greater taxes paid through these international agreements?

Would anyone care to comment on that?

Mr. Richard Murphy: May I?

The Chair: Yes, Mr. Murphy.

Mr. Richard Murphy: For all practical purposes, tax information exchange agreements are completely useless. Signing one is a complete waste of time. You will discover that some place like Jersey, which has 50% of its economy dependent upon financial services and has had a TIEA with the U.S.A., for example, since 2002—one of the first there was—has so far exchanged less than one hundred pieces of information on \$400 billion worth of assets located in Jersey.

For all practical purposes, that means they are absolutely impossible to use, and even when information is supplied, the quality of that information is normally very low, because you have discovered that actually the bank does not really know who the beneficial owner of the asset is.

Ms. Peggy Nash: Thank you.

Does anyone else care to comment?

The Chair: Mr. Cockfield, do you want to comment?

Prof. Arthur Cockfield: Yes. As a first point, we would call all of those moneys you mentioned with respect to foreign investments in Barbados and the Caymans perfectly legitimate. Those are moneys fully disclosed to our government. That's the multinationals, involved in aggressive transfer pricing and other sorts of cross-border structures. So that's one thing.

To the TIEA issue, our government only announced TIEAs back in the 2007 federal budget. It has been signing them in recent years. Through informal discussions with CRA and Finance people...the TIEAs are just starting to get going. I and others are quite skeptical about whether they will help protect the Canadian income tax base, for a host of reasons that we could get into, if you'd like. The TIEAs really haven't kicked in yet in Canada.

Ms. Peggy Nash: Mr. Cockfield, I want to ask you one quick question. You mentioned earlier that the whole tax evasion issue is difficult to prosecute because you have to demonstrate a guilty mind. What some other countries have done is take it out of the Criminal Code and go to administrative penalties, in order to make the test easier to prosecute.

Can you comment on that? Is that the direction Canada should be going in?

Prof. Arthur Cockfield: You would hate to give up on the traditional justice system, but it's my understanding that we haven't had a successful criminal prosecution for tax evasion in Canada in the last decade. I would defer to the CRA and Finance experts on that issue, but we haven't been able to successfully prosecute. So maybe this is a helpful reform effort for Canada; at least we'd see some action.

Now, of course, some of the folks whom CRA and the Department of Justice go after settle; that may explain why we don't have a successful conviction. But an administrative penalty is a very interesting and I think potentially helpful idea.

•(1025)

Ms. Peggy Nash: I'd like to turn my time over to Mr. Côté.

[Translation]

The Chair: Mr. Côté, you have one minute left.

Mr. Raymond Côté: Excellent, Mr. Chair.

Mr. Howlett, in the recent OECD report that my colleague, Mr. Murray, referred to, there is a reference to a recent report from the J.P. Morgan bank that compares multinational companies with a wealth of intellectual property, such as GlaxoSmithKline, to companies whose activities are mainly restricted to the United States. The example I'm going to use is a business called La Fée des Grèves, a fish smoking company in Beauport—Limoilou.

According to this report, the multinationals have an average effective tax rate of 22.4% over 10 years, whereas for the same 10-year period, companies working with a domestic market have an effective tax rate of 36.2%.

According to your information, is this situation similar in Canada?

[English]

The Chair: Give just a brief response, Mr. Howlett, please.

Mr. Dennis Howlett: There are a couple of things.

One is that there is a problem of a race to the bottom in corporate tax rates, and this is a global problem. Canada is actually contributing to that problem. When I was in Washington last year, congressmen there were complaining that Canada is becoming a tax haven.

We found that the lower corporate tax rates actually don't work that well in terms of stimulating the economy. They haven't helped much, but they contribute to that global problem of lowering tax rates and then creating more and more competition between countries. That's one thing. You don't want to get too out of line with the overall rates, and that creates a problem, as you point out.

I think ultimately we need a global solution. There is a lot more that Canada could do by way of enforcement, but ultimately we need something like the unitary tax that Mr. Murphy talked about as a way to fairly tax corporations on a global basis and apportion their profits according to their economic activity in different countries. This is already done in the U.S. on a state level; it could be applied globally, and that would be the system we need to aim for.

The Chair: Thank you.

[Translation]

Thank you, Mr. Côté.

[English]

I don't know if I'm going to get into the whole competitive tax rates stimulating the economy issue. I certainly disagree, but I think we'll leave that debate for another day.

I want to ask the Canadian Bankers Association a question. Mr. Cockfield made a recommendation on consolidated reporting by corporations. As an association, do you agree with that recommendation?

Mr. Marion Wrobel: Consolidated tax reporting?

The Chair: Yes, the recommendation he made in his presentation. Do you agree with that?

Mr. Darren Hannah: I know that the government has undertaken a review of consolidated tax reporting in Canada. Can we move to a system of reporting within Canada for a consolidated tax across a group-wide basis? We think reporting within Canada across a group-wide basis is a good thing. It's administratively simpler.

The Chair: Do you agree with Mr. Cockfield's recommendations?

Mr. Darren Hannah: I'd have to hear exactly how he framed his recommendation. I'm talking about consolidated reporting within Canada.

The Chair: He was talking internationally.

Mr. Darren Hannah: That's a different issue.

The Chair: You can get back to me on that, then.

Mr. Murphy, in your presentation you outlined tax evasion and tax havens very well. You said that it's not about the level of tax; it's about secrecy, it's about non-cooperation, it's about not providing information or providing limited information. I appreciate your providing that outline.

One of the bigger questions I have.... Obviously you want more information. You talk about automatic exchange of information, which I think is broadly supported, but how do you ensure that you balance that with the right of privacy of individuals? It seems to me that you have to find that line between the two. I want you to comment on that, because to find people who are evading tax, obviously you are going to have to access information. In accessing that information, you will have to respect personal privacy. So how do you find that line there?

Mr. Richard Murphy: I think that's an important question. My big concern is—and we've heard a lot of discussion this morning about what is in the bank's records about who owns an account, where it's owned, and who the owner of a corporation is. The big problem we have is that that information is in the bank's files and it isn't available to a tax authority, or if it's available, there's considerable difficulty.

Speaking purely practically, we also heard about the problem CRA has with checking information supplied to it. Once we come down to, for example, sending portfolio investment information from the States to Canada, let alone from the rest of the world to Canada, we are talking about massive amounts of information.

My recommendation is that we make this as simple as possible. The desire is not to check every tax return or every record; that's impossible. What we want to create is a deterrent effect. So we need to have the information exchange that creates maximum deterrence at a minimum cost, minimum risk, to privacy. That would be disclosure of who the warm bodies are—the real human beings who have interests in an offshore bank account, an offshore trust, an offshore company—to the territory where they are a tax resident.

As I say, I'm not interested in disclosure of the amount of income. There's risk in that information exchange, but it will give the domestic tax authority, the CRA, the right to say that you aren't disclosing an offshore source of income on your tax return; we're told you have an interest in this bank account in Jersey, the Isle of Man, Cayman—wherever—and we want to ask you to explain that.

It also makes the tax information exchange agreement work, because suddenly there is the smoking gun to make an inquiry, which is completely absent and it makes them impossible to use at present.

That minimal exchange would make the whole international system work and create the deterrent effect, which I believe could be exploited to improve taxpayer morale and the belief that everyone is going to be paying, which is essential to a proper outcome of this.

• (1030)

The Chair: I appreciate that.

I have a couple of minutes left. I want to follow up as well on determining the amount. You said in your presentation that the U.K. government estimated \$30 billion. You've estimated \$90 billion, which is obviously a massive difference in numbers.

I see the benefit in trying to determine a number, in the sense of the process of trying to determine a number, and that investigation will obviously reveal some benefit. I guess my concern, though, is that when you start putting numbers out there—and you put out a \$90 billion number and the government puts out a \$30 billion number—it becomes more a debate about whose number and who is right, and why the projection is off here and there, rather than about the information gleaned from trying to find out what that number is.

Mr. Richard Murphy: The U.K. government has spent a lot more money trying to discredit my number than it's ever invested in actually trying to get the number right, and that's an unfortunate use of funds.

There is a fundamentally different approach between the two of us. They take the tax returns they receive and try to calculate the error rate within them. I actually look at the total economy and the level of activity within it, and then look at the total recorded level, which is fundamentally working from a GST level and saying that if GST is going to be avoided—it's VAT here, but GST in your terms. If the VAT is being evaded, then actually the income tax, the payroll taxes, the profit taxes, and everything else will be lost, because GST is on the top line of the profit and loss account.

I'm an accountant, so I do what's called a top-down approach; they do a bottom-up approach. Their approach has to be flawed because they don't include all the people who fail to send in their tax return in the first place; therefore, their number is bound to be smaller than mine. Somebody who completely skips the system isn't in their estimate. So they have it wrong.

The *Financial Times* in the U.K. called those numbers completely made up, and I would tend to agree with that analysis. We have to be more sophisticated than they are, but we also have to be aware that we are not estimating, and that's as good as we'll ever get.

The Chair: I appreciate that.

I'm going to move to the next round, with Mr. Brison, please.

Hon. Scott Brison: Thank you, Mr. Chair.

Professor Cockfield, in your previous appearance before this committee you encouraged Canada to ratify the OECD Convention on Mutual Administrative Assistance in Tax Matters.

In what ways does the convention go beyond an OECD model tax information exchange agreement?

Prof. Arthur Cockfield: That's correct. Canada actually signed the agreement in 2004, and as I mentioned in the previous hearing, for a bunch of strange political reasons I think the government intended to ratify this agreement, but the implementing legislation simply hasn't passed through.

The reason it's important is that this is a multilateral agreement to share cross-border tax information, versus the bilateral TIEAs, tax information exchange agreements. I don't think it's a magic bullet to fix all the problems with respect to international tax evasion, but it's just one more cooperative measure where Canada can be part of this broad multilateral sharing of taxpayer information. I think it is a very helpful reform, but again, it's not going to solve any of the problems, and certainly TIEAs won't solve the problem either.

• (1035)

Hon. Scott Brison: But you would recommend to the committee that the government implement the legislation, or at least move forward with that enabling legislation.

Prof. Arthur Cockfield: Yes.

Hon. Scott Brison: Okay, thank you.

Mr. Wrobel, welcome back to the committee, by the way. You've spent quite a bit of time with us over the years.

You have expressed concern over FATCA, particularly over document retention requirements and the complexity of the act. But you've also spoken in favour of intergovernmental agreement processes the U.S. is developing with a number of European countries, including the U.K.

What would be the key components of a parallel arrangement for Canada?

I'd appreciate also hearing from others as to the efficacy of these types of arrangements.

Mr. Marion Wrobel: Again, I'll let my colleague talk about FATCA.

Mr. Darren Hannah: We're supportive of the intergovernmental agreement approach as an alternative to FATCA writ large—the negotiated approach, if you want to call it that, the U.S. regulatory approach—because it creates all kinds of challenges.

Under FATCA, absent the intergovernmental agreement, financial institutions would have to, in effect, agree to provide information across borders on, potentially, Canadian account holders to the IRS, potentially withhold on those who choose not to provide sufficient information to the financial institution, and in some cases close accounts of people. We don't want to have to do that.

The alternative approach is through the intergovernmental agreement, where information is provided to CRA. We think that's a better approach.

Hon. Scott Brison: Mr. Murphy, do you have views on these arrangements?

Mr. Richard Murphy: As you've gathered, I would prefer simplicity, and the last thing you can describe FATCA as is simple. It

is clearly a very complex way of dealing with it, so I don't think it's ideal.

I believe that Europe is actually going to provide a better model for this. The European Union Savings Taxation Directive is now making progress. It was blocked by Austria and Luxembourg for some time, but if you want to look at a model as to how to go forward, I think the revised savings taxation directive is a much better way to go than FATCA.

Hon. Scott Brison: Thank you.

Mr. Wrobel and Mr. Hannah, speaking on behalf of your members, some of the questions Ms. Glover and Mr. Jean were asking were difficult for your organization to answer. Would you ask your members if perhaps their heads of private banking would be willing to appear before our committee specifically to answer the questions that Ms. Glover and Mr. Jean were asking, in terms of what the internal processes are?

There has been a growth in private banking, and this is a legitimate activity, obviously, and I'm not implying otherwise. I think the growth in private banking globally and in Canada is important and is largely positive.

We at this committee have faith that the Canadian banks are solid and strong and ethical in terms of their approaches, but it would be helpful to know what the processes are, to prevent this kind of activity.

The Chair: Respond briefly, please.

Mr. Marion Wrobel: I believe the committee has invited the individual members, and if the committee wishes to invite them again, it's up to the committee, not the CBA, to ask the banks to appear.

The Chair: The committee did invite all the banks, and all the banks declined the invitation to appear. Perhaps the committee can invite them again, if the committee wishes.

Thank you.

We'll go to Ms. McLeod, please, for the final round.

Mrs. Cathy McLeod: Thank you, Mr. Chair. I want to pick up on a few things quickly, because I don't want to leave some wrong impressions.

Mr. Cockfield, you talked about there being no convictions. I think between April 2006 and 2012, there were 1,282 convictions of taxpayers, 192 jail sentences, and, in terms of the tax evasion associated with offshore bank accounts, there were 44 convictions involving \$7.7 million and also \$6.8 million in fines and 337 months in jail. Obviously there's a high burden of proof, but we certainly are tackling it in an aggressive way. I wanted to correct that, so that people wouldn't think we hadn't moved forward.

Another thing that is important to acknowledge...I know Mr. Howlett had some brief comments about there not being the resources. Significantly more resources have been put into this area. We heard from Terrance McAuley, one of our senior officials, in the last meeting, and he talked about how they've created research arms and how they're involved overseas. He was very clear in terms of increased resources and the very positive work that is being done on behalf of Canadian taxpayers in dealing with this issue.

We've talked a lot about where we need to go, and I think that's an important conversation, but I think it's also important.... Mr. Wrobel, you've been in the industry for a while, so I will give you an opportunity to comment. You certainly support country-to-country sharing. Some countries continue to have bank secrecy laws and a culture of secrecy, but have you noticed any changes from a global perspective as we tackle this?

• (1040)

Mr. Marion Wrobel: Again, Mr. Chairman, we support government initiatives designed to deal with tax evasion, to prosecute it, and to prevent it from happening. Some of the things we've seen over the last few years—the kind of reporting that is required from FINTRAC is a relatively recent initiative; anti-money-laundering rules are very strict; banks have to go.... It's quite expensive to comply with the rules, but we understand the motivation behind them and we support that motivation.

So we have seen a number of more global initiatives that are designed to tackle issues that have multi-jurisdictional effects. Those kinds of initiatives are properly done through international forums, rather than by trying to do them unilaterally from one country to another. Tackling single jurisdictions is not effective.

For small countries like Canada, it's very difficult to take initiatives that only Canada is doing that may not be effective and at the same time will penalize our own businesses.

Mrs. Cathy McLeod: Is it fair to say that you have noticed over the years that what were perhaps some traditional tax havens have become much more open with regard to what's happening in those communities?

Mr. Marion Wrobel: Just generally, it's recognized that bank secrecy in those jurisdictions is something that is much less acceptable than it was in the past.

At the same time, we recognize that jurisdictions have the right to pursue a fiscal policy as they see fit, just as Canada has decided to pursue tax competitiveness in certain areas. For other jurisdictions, if they want to pursue a type of fiscal policy, and that includes tax policy, it's entirely within their jurisdiction to do so.

Mrs. Cathy McLeod: It was interesting that Mr. Murphy and a number of people have had comments about TIEAs. I certainly perceive TIEAs as not being the be-all and end-all, but they are another tool in the toolbox. I appreciated Mr. Murphy's comment with regard to the multilateral sharing and then how a TIEA becomes another tool in the toolbox.

Mr. Cockfield, have you any comments on that particular thought?

• (1045)

The Chair: Just a brief comment.

Prof. Arthur Cockfield: Briefly, I agree with Mr. Murphy that enhanced multilateral sharing is a good idea. Maybe it could be tied into these bilateral TIEAs in some fashion.

I also agree with him to move the agenda forward, that to simply disclose the identity of the account holder and not their income could be another positive reform suggestion. If people don't want their income shown, then fine, don't show that. Just show the identity of the account holders.

Mrs. Cathy McLeod: Thank you. I think I'm out of time.

The Chair: Yes. Unfortunately, we are at the end of the time for our session.

I do want to thank all of you for being with us here today, especially Mr. Murphy and Mr. Cockfield for joining us by video conference.

I will say to all of our witnesses, both here and by video conference, that if there is anything further you wish the committee to consider, any further testimony you want to provide, please provide that to me, as the chair, or to the clerk. I will ensure that all the members get it and consider it on this issue.

Thank you so much for being with us here today.

The meeting is adjourned.

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