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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 108th meeting of the Standing Committee on Finance. We are televised, colleagues.

Our orders of the day, pursuant to Standing Order 108(2), concern the subject matter of Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation.

Colleagues, for the first hour we have again officials from the Department of Finance. We are also very pleased to welcome the Minister of State for Finance, the Honourable Ted Menzies.

Minister, with your officials, welcome back to the committee for the first hour. I understand you have an opening statement, and then we'll have questions from members. I do want to welcome you. Perhaps you can introduce your officials as well. I understand there are three Edwards at the table today. I don't know if you were named after Edward the Confessor or Edward I.

Hon. Ted Menzies (Minister of State (Finance)): Thank you.

I don't know that we're going to start numbering, but it is a rare event to have three Edwards sitting at the end of the table. Edward Short is with me, as well as Ted—or Edward—Cook and Shawn Porter. I will be leaning heavily on them, because as you all know this is very technical. We understand it on the surface. We understand the reasons for doing it, but these individuals will be able to explain how we are actually doing this and the depths of it.

Mr. Chairman, if I can, I first want to thank all of the members of the finance committee for undertaking this important consideration of Bill C-48, the Technical Tax Amendments Act.

I will start with relatively short remarks, as I would like to leave as much time as I can for questions from the members of the committee to me and my departmental officials here today.

Prior to beginning those remarks, I would like to pause for a moment to express my gratitude and thanks, as well as those of Minister Flaherty, to both the chair and all the members of the finance committee for their hard work in recent months. To begin with, I'd like to recognize the committee for completing its annual pre-budget consultation hearings and for tabling such a comprehensive report this last December.

In addition to the consultations conducted by me and the Minister of Finance, this committee's proceedings and report are key

components of how we all ensure that Canadians from all across this country have the opportunity to provide their input into the federal budget. As in previous years, the recommendations from the finance committee's report will help guide us in the development of that budget.

On another note, I want to applaud the committee for tabling its report this past February on potential opportunities for our government to help boost charitable giving in Canada. As we review this comprehensive study of ways to support Canada's charitable sector, I congratulate the committee for undertaking this landmark study and for consulting so thoroughly with charities from coast to coast to coast.

Now I'll move on to the matter at hand, this Technical Tax Amendments Act. As the name suggests, this legislation is fundamentally very technical. Nevertheless, it has important implications for taxpayers, both individuals and businesses.

Indeed, today's legislation actually represents over a decade's worth of miscellaneous tax amendments that have long been backlogged and that are important to Canada's taxation system. It's a backlog that has festered and grown, as Parliament has not passed technical tax legislation for over a decade, despite previous attempts in recent parliaments, including those by our government.

The backlog has grown to such an extent that numerous groups have urged Parliament to act. In fact, the Auditor General of Canada, after careful examination, recommended in a recent report that this situation needed to be addressed. I will quote from her report from 2009:

Taxpayers' ability to comply with tax legislation depends on their understanding of how the rules apply to their own circumstances.... Uncertainty about how the law should be applied can also add to the time taken [as well as the] costs incurred by tax audits and tax administration.

Our government wholeheartedly agrees with that statement, and that's why we've been working extensively over the past few years to clear this decades-long backlog. During that time, we've held numerous public consultations on these amendments, allowing Canadians to provide feedback before the formal introduction, to allow any issues or concerns to be dealt with in advance.

With that far-reaching consultation process now complete and the legislation introduced, we move to the next stage in this long journey, and that is the examination and the study by Parliament.

I truly believe that all parliamentarians recognize the need to work together in a cooperative manner to conduct the detailed yet timely study that this legislation deserves.

The Certified General Accountants Association of Canada is a strong and vocal proponent of addressing this technical tax backlog, as members of this committee will recall from their numerous appearances before you. Let me quote from them regarding today's legislation:

By tabling this legislation, the government is taking concrete action to deal with the backlog of unlegislated tax proposals.... The new bill will provide more certainty to Canadian taxpayers and lessen the burden of compliance.... With unlegislated tax measures, taxpayers and professional accountants must maintain their records and forms—sometimes for years.... This uncertainty and unpredictability places an enormous compliance burden on taxpayers, businesses, professionals and their clients.

• (0850)

With that background in mind, let me highlight certain aspects of the legislation, specifically those related to closing tax loopholes, something that may be of interest to the committee given your current study on tax evasion and tax havens.

Although some members on one side of this table might not agree with our government's low tax agenda, I think we would all agree on the need for tax fairness. That being said, everyone should pay their fair share of taxes, and the principle of tax fairness is important for a whole host of reasons, none more so than that it allows taxes to remain low across the board and not merely for a select few who abuse the system at the expense of hardworking, honest Canadians who do play by the rules.

Indeed, since taking office in 2006, our government has introduced over 50 measures to improve the integrity of the tax system by closing tax loopholes worth about \$2.4 billion annually. In keeping with that principle and with our record, the technical tax amendments act of 2012 proposes to strengthen Canada's tax system by closing a number of tax loopholes and improving fairness for all Canadian taxpayers.

For instance, in order to help protect the integrity of the income tax system, this legislation contains various measures to address aggressive tax planning. A number of these rules are intended to frustrate those who would use aggressive tax avoidance transactions, including, for example, the rules concerning foreign tax credit generators, refinements to the application of the specified leasing property rules, rules to curtail loss trading on the conversion of income trusts to corporations, and rules intended to strengthen the integrity of the non-resident trust provisions. Today's legislation also contains measures to implement a more rigorous information reporting regime for certain transactions associated with schemes that are intended to avoid taxes.

This tougher reporting regime will help the Canada Revenue Agency get early disclosure and detailed information on transactions that present a high risk of abuse to the income tax system and assist the agency in challenging them if they are in fact found to be abusive.

As I said at the outset, I will make these remarks short, so I will stop there and open the floor in the time remaining for questions of

the committee that either myself or these officials who are here to help me will be happy to answer.

In closing, let me sum up in a few short phrases why passage of this lengthy bill is important. It provides certainty for taxpayers, it makes compliance easier, and it improves tax fairness for all Canadians.

We welcome your questions.

Thank you, Mr. Chair.

• (0855)

The Chair: Thank you very much, Minister Menzies, for your opening statement.

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

Ms. Peggy Nash (Parkdale—High Park, NDP): Thank you, Mr. Chair.

Welcome to the committee again, Mr. Minister.

Welcome to the finance department officials again, and thank you for appearing here concerning Bill C-48.

Obviously, we support the goal of closing tax loopholes and making the tax system in Canada clearer and easier to understand for Canadians. As you know, this is a bill that runs almost 1,000 pages in length, so it makes for some weighty reading for the finance committee.

As you say, it's important that these technical changes be adopted so that there is clarity and certainty in our tax legislation.

I noted that CGA-Canada issued a press release with the introduction of Bill C-48, and it talked about the importance of adopting a mechanism that would set a limit, a date, to have modifications or changes adopted once they're brought into law. As you know, this bill includes changes, some of which are over a decade old, and certainly for some time professionals in the tax field have been clamouring for these changes to actually be put in law for the sake of clarity and ease of understanding.

What do you think about the recommendation of the tax professionals that there be a time limit set for tax changes so that they would be adopted in such a bill in a timely fashion, rather than letting them sit for more than a decade?

Hon. Ted Menzies: Thank you, Ms. Nash.

Through you, Chair, I remember sitting at this committee for many appearances of the CGA and other tax experts, chastising us for not having accomplished this. Unfortunately, we sat in a minority Parliament for quite some time. In fact, from the day I was elected in 2004 until January 2011, we were in that situation. We attempted a couple of times; previous governments attempted a couple of times.

To set a deadline on it, I think, is a challenge because it all depends on the number of tax changes or improvements to the tax system. The officials will be able to elaborate on this.

We're in constant consultation with those people involved. These folks have had the opportunity to clarify points, to actually issue comfort letters, if you will, to some of the people who were caught up in limbo, if you want to use that term. The consultations have been effective. We think those consultations have been helpful.

We continue to move forward as quickly as we can with these, but there's a process involved. I don't think it's appropriate to set time limits on it at this time, but we welcome their suggestions.

Ms. Peggy Nash: So you would differ with the CGA on this point in terms of having a mechanism that would require governments to pass changes in law within a certain timeframe.

Hon. Ted Menzies: Well, we welcome their suggestion.

Ms. Peggy Nash: I only have one minute left.

One of the areas that you have mentioned in your remarks and that was covered in this bill is the whole question of tax avoidance, tax loopholes. We're studying tax havens and tax avoidance, of course, in this committee. Something I would think a minister with your portfolio and others in your government would be interested in is some mechanism to determine, whether it's through some kind of spot check or sampling, what the gap might be between what we're collecting today and what the potential revenue is if we were to crack down further on tax havens and tax avoidance.

Do you have an opinion on that?

• (0900)

The Chair: Just give a brief response, Minister, please.

Hon. Ted Menzies: I certainly have an opinion, and you're dead right. Why should most Canadians work hard to pay their taxes, pay an accountant to make sure they're paying their fair share of taxes, while other people are allowed to avoid them? I referred in my opening comments to some of the numbers. I'm sure that our officials, maybe in answer to a later question, might give us the numbers of the potential losses. I do applaud your work here at this committee.

Ms. Peggy Nash: You've been unable to do so. Thank you for your comments.

Hon. Ted Menzies: I guess it's hard to gauge what we're not getting.

The Chair: Thank you.

Thank you, Ms. Nash.

Mr. Hoback, please, it is your round.

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

Thank you, Minister and your staff, for being here this morning. It's great to see you.

I guess it's been more than 10 years since we actually looked at tax amendments and what needed to be changed. If we look back over 10 years and the number of changes in our economy, that's pretty substantial. In fact, I think if I go back 10 years, I didn't have any grey hair. I know you didn't have any grey hair for sure; I don't think you do right now.

Where I want to go, Minister, is to talk to you about the backlog in the Auditor General's report from 2009 and how you went through

the process of analyzing that report and coming forward with the government's response to the recommendations made in that report.

Hon. Ted Menzies: Through you, Mr. Chair, we recognized that all along. In fact, when that report was tabled in 2009, we thought that would actually help move things along. It did highlight a number of problems that were raised.

It's for individuals, it's for your constituents that there's uncertainty, whether they're farmers or business people in your constituency. The tax preparers had to maintain all of these records. There's uncertainty, and I'm sure their advice to your constituents would have been that this was what they thought was actual. That was what CRA was advising them, but there was not enough certainty for them to take it to the bank, so to speak.

Certainly there was the inconsistency in the process. While I sat at this committee we had many accountants, as I say, who would come and say they needed us to get this done because it was creating more work. And when it creates more work for a tax professional, we know who pays the bills on that. It's the individual.

I don't know if our officials have any further comment. As I said before, it's given us an opportunity to actually reach out to these people who are affected by it and consult more.

Does anybody have any further comment?

Mr. Ted Cook (Senior Legislative Chief, Tax Legislation Division, Tax Policy Branch, Department of Finance): In regard to the department's response to the Auditor General's report, it's worth mentioning that there were two recommendations. The first was that the department should use an integrated and consistent process for recording, tracking, and prioritizing all technical issues for possible legislative amendment. The second recommendation was that the Department of Finance should develop and implement a plan to address the current backlog of necessary technical amendments, and it should regularly develop and release technical amendments, including those that arise from comfort letters.

As I indicated in our appearance last week before the committee, since then we have introduced a new database for tracking legislative amendments. That database has been subject to an internal audit at the Department of Finance and has been found to be fully functioning. With respect to developing and releasing new packages of technical amendments, additional packages have been prepared for ministerial consideration and in fact were released in November 2010, October 2011, and the most recent was released in December 2012.

Mr. Randy Hoback: When you look at different changes in income tax or different programs brought out by governments—I'll use the one for self-employed individuals and the benefits they can now get through EI. Would those types of changes make that implementation easier or more effective?

Mr. Ted Cook: I believe the specific amendment you're talking about was the Fairness for the Self-Employed Act, back in 2009-10, which allowed certain EI benefits to be provided to self-employed people if they chose to opt into the system.

• (0905)

Mr. Randy Hoback: There were maternity benefits and stuff like that, yes.

Mr. Ted Cook: Yes. So this is not one of our usual comfort letters. This is a consequential amendment to the Income Tax Act that is required to make sure people can get an EI tax credit for those premiums, and that measure is contained in this bill.

Mr. Randy Hoback: Thank you.

Mr. Chair, I'll leave it at that.

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

We're going to go to Mr. McCallum. Welcome back to the finance committee.

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair.

The Chair: It's déjà vu all over again.

Hon. John McCallum: It's good to be back.

My first question is on a somewhat different topic. Today we heard that the federal government was going to cut a \$2 billion transfer to the provinces for skills training and presumably use that money in its own way. I wonder if you could confirm whether that report is indeed true.

The Chair: Mr. McCallum, which part of Bill C-48 does this refer to?

Voices: Oh, oh!

Hon. John McCallum: It's a slightly different, but related, topic.

Hon. Ted Menzies: This will save him having to ask it in question period later on.

Thank you, and it is déjà vu all over again, because here we have a few questions that are perhaps not on topic. But I don't comment on speculation in the media. As stellar as the reporting is in the media, I do not comment on it.

Hon. John McCallum: Then I'll move on to something more pertinent to this bill.

The Chair: Thank you.

Hon. John McCallum: My point is, I don't think minority government is an excuse for the delay in the introduction of this bill. Twice in Parliament there was unanimous agreement to proceed with the predecessor bills. Therefore, one cannot say that it's because of a minority government that there was a delay. I believe that all parties are supporting this version of the bill. So if all MPs, whether it's a minority or a majority government, were in favour, then that's not an excuse for such a long delay and all the costs that this delay implies.

My question is, why has the government not treated this as a priority? Why has it taken seven years to get to it?

Hon. Ted Menzies: Some of this dates back to the previous Liberal government that didn't quite get their legislation through either. I'm not suggesting that minority parliaments were the only reason, but it does take time to get this on the agenda. There's been a lot of legislation put forward. There's been extensive discussion on a number of budgets. I shouldn't have to remind this committee that we went through a recession in which that became the priority—dealing with how to help people find jobs, how to stabilize the economy, help the economy grow. We were focused on that. We remain focused on that.

Officials reminded us of the comfort letters, and the fact that individuals were assured of what the government's intention was. It's a matter of legislating these. We're moving forward with it now, and we encourage the House to move forward with it as quickly as possible so we can get these implemented in this spring session. I would think that would be quite doable.

Hon. John McCallum: What you're saying is it's not possible to walk and chew gum at the same time. I don't know why a recession stops you from passing this highly technical bill.

But moving on, in terms of the time it takes for tax rulings, the 2009 report of the Auditor General suggested a 60-day target, then it was 101 days, and according to the latest departmental performance report, the latest figure is 106 days. So we're moving in the wrong direction.

I'm wondering if you have any plans to change that direction and get to the 60-day target.

Hon. Ted Menzies: Certainly, we'd like to reduce that whenever possible, but there are lots of extenuating circumstances. These individuals sitting with me today are the ones who have been working with the accounting firms, with the individuals who have been sharing their concerns, and we move forward as quickly as we can.

The Chair: You have one minute.

Hon. John McCallum: That doesn't really tell us that it's going to go from 106 to 60. It sounds as if it might go from 106 to 120. Maybe they don't have enough resources, I would say.

I have one last question. The suggestion has been made that rather than do such a bill as this every seven years, it should be done every year so that one could have a housecleaning process that would eliminate these long delays.

Would you support the idea of an annual technical bill to keep things tidier than they currently are?

● (0910)

Hon. Ted Menzies: Certainly, we want to keep it more regular and more timely. I don't know if putting specific numbers on it would be helpful. There may not be enough for a stand-alone piece of legislation each time. But regular and timely working through this process is a very worthwhile goal.

Hon. John McCallum: Thank you, Mr. Chair.

The Chair: Thank you, Mr. McCallum

We will go to Mr. Jean, please.

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

It sounds as if the Liberal Party is going to support this technical tax bill. Certainly, it seems to me, based on their comments, that they are encouraging us to move forward with it very aggressively, and I'm glad to hear that.

I'm curious, in particular in relation to the Auditor General's comments. Some of the comments made by that office were in relation to the higher costs to comply, as it was, less efficiency in business transactions, and there were other comments.

Could you give us your synopsis of an indication, from what's taking place today, of how we are complying with what the Auditor General has recommended?

Hon. Ted Menzies: Thank you.

Mr. Cook referred to the integration and more consistent processes for recording, tracking, and prioritizing all of the technical issues. As we all know, these are very technical issues.

I refer back to a comment I made to Mr. Hoback. The more complex this gets, the more costly it is to your constituents and mine. I think the Auditor General recognized that this backlog was creating an additional cost for individuals and for the accounting firms as well. Consolidating the Department of Finance's systems and the technical uses that are documented, the cataloguing of these changes—those are all improvements the Auditor General recommended. The officials can help me out here, but my understanding is that those have been put in place to help move the process along. I would suggest we'll be perhaps better prepared as this bill works its way through, and we have new tax changes coming in the future.

I'll pass it over to Mr. Cook.

Mr. Ted Cook: If I can perhaps make a couple of comments in that respect, in terms of ease of compliance and certainty for taxpayers, a lot of what the bill does will ease compliance for taxpayers with respect to tax changes that have been outstanding and have been administered by the CRA for a number of years.

As I think was mentioned to the committee before, even though there has been draft legislation, a taxpayer may not have been able to use those changes for financial statement purposes. A taxpayer may be choosing whether or not to take a particular position for tax purposes and then be required to take another position for financial statement purposes. It wasn't integrated.

With the tabling of this bill, for accounting purposes this counts as substantially enacted, so taxpayers can now rely on one set of tax rules for financial statement and tax purposes. And going forward, if smaller packages of draft legislation are released, presumably it will be easier for taxpayers to digest and work with those changes—and presumably smaller bills in the future.

Mr. Brian Jean: So it takes care of the grey areas of the tax department code.

My understanding is that as a result of this uncertainty in the tax code, often corporations will take a more aggressive position with their tax filings because of the uncertainty in the code itself.

Mr. Ted Cook: That certainly has been a concern. The longer it takes, the greater a concern it becomes. Taxpayers are encouraged to file based on proposed legislation. CRA generally administers based on proposed legislation. But taxpayers do have the right to file based on the existing law and not rely on the draft legislation, with the result that potentially you could take an aggressive position in the hope that it—

Mr. Brian Jean: It changes.

Mr. Ted Cook: —won't get through.

● (0915)

Mr. Brian Jean: Yes. I only have a couple of minutes, but I notice that there are some groups that have come out very positively in relation to these changes by the government.

Can you give us an idea, Mr. Minister, of some of the more positive groups, such as the CGA, etc.?

The Chair: Just a brief response, Minister.

Hon. Ted Menzies: Certainly, the Certified General Accountants have been very supportive of this, and the charitable sector as well, and you've heard much from them.

The fact is that in this technical tax bill we're clarifying what has been a long-standing practice. Everybody has been assuming in the charitable sector that you can actually split receipts for charitable donations. That has not been legislated until it has been put in this. The charitable sector is very supportive of that. And the self-employed as well; I think it was mentioned earlier that they can actually deduct—a large segment of our economy right now is the self-employed. They could not actually fully deduct the benefits from their EI contributions. Those are just some of the groups that have been waiting for this to happen.

Mr. Brian Jean: It's certainly a large portion of the Canadian population.

Hon. Ted Menzies: A fairly large portion.

Mr. Brian Jean: Thank you, Minister.

The Chair: Thank you, Mr. Jean.

[Translation]

Mr. Caron, you have the floor.

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): I would like to come back to the fact that we need bills on this topic to be tabled regularly so that we can avoid having to deal with bills on technical elements that are 1,000 pages long.

Like Mr. McCallum, I do not believe that a minority government is the only excuse here. You effectively admitted that that was not the only reason. If I am not mistaken, a bill was tabled in 2007. It was aimed at providing a fiscal update. As being a minority government was not the only excuse, I would like to know why the government did not table this bill after the 2008 election. There were, after all, three years before the next elections.

This is a very extensive bill that does not contain particularly controversial issues, apart from a few. Why could it not be tabled during the last parliament?

[English]

Hon. Ted Menzies: Mr. Chair, it's important that we recognize that there are many reasons for it not happening, not the least of which is the fact that we were challenged with a recession. That certainly was the focus of our government, to make sure that our 2009 budget was reflective of what we needed to do to make sure that we could get as many people back to work as possible. That was the main thrust of that budget. Many of the changes that we put in there implicated the Income Tax Act, and it's very important that we move those forward. To keep focused on that, we've had successive budgets that have focused on the same thing. The fact is that going forward we will have regular updates to these, and hopefully we won't be looking at a 1,000-page.... I would have to ask why debate in the House of Commons is continuing on and on and on and on when it actually—

[Translation]

Mr. Guy Caron: I understand; but my time is limited and I would like to ask Mr. Cook another question. We can come back to that later.

[English]

Mr. Ted Cook: There's a little bit more of a story than a brief answer. I would note that when Bill C-10 was before the Senate, the Senate did actually have concerns with Bill C-10 with respect to the non-resident trust and foreign investment entities in particular. There were three or four fairly significant issues that were raised. In terms of the bill that was before the Senate, this bill is not simply a retabling of that. There was a consultation that was taken at that point, and then revised NRT and FIE proposals, if you will, were included in Budget 2010. They also provided a subsequent consultation period, including review of draft legislation by a panel of senior tax practitioners.

I guess I would just note that there were elements of that bill that are different in this bill.

• (0920)

[Translation]

Mr. Guy Caron: I understand; however, on the other hand, we could have removed those four or five problematic elements and adopted a large portion of the bill with the agreement of senators and of the members.

I would like to turn back to you, Minister.

You said that one of the reasons why the bill was not tabled in 2008 was that we were faced with a recession and we had to concentrate on economic growth and on recovering from the recession. On the other hand, there is not necessarily a big focus on that. In the end, it is an issue of implementing elements that were already largely approved by the Department of Finance through the letter of intent.

You could have fought the recession and implemented the various economic action plans but also tabled this bill, which is not a big attention-getter and would not necessarily have required that the government spend a lot of resources on it.

[English]

The Chair: Would you give a brief response, Minister, please?

Hon. Ted Menzies: I would argue the point that this does require a lot of resources, and our resources were taxed in developing budgets, in developing policies that were actually designed to help people get back to work, to help grow the economy, to look forward, as to how the government needed to react to a recession. We weren't faced with the recession that other countries were, but we asked a lot of our officials at the Department of Finance...and I will defend them as doing a wonderful job for us. We thought it was most important that they focus on the matter at hand, and that was the recession.

We have this before us now, and I would encourage everyone to get it passed as quickly as possible so that people do have more than just a comfort letter; they actually have a comfort level.

The Chair: Okay, thank you.

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

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

Minister, it's good to see you again. It should be noted—and it's important that we note this—that this bill is now being debated in the House. One speaker is being thrown up after another, and the speeches are prepared. If we were really serious about passing this bill, it would be very simple to just have this thing passed right now.

The other thing relates to Mr. McCallum's statement. Prior to 2008, when the majority of the Senate was Liberal, it was delayed again. So there seems to be this constant delay. I know that I'm pleased that we're doing it.

I want to give you a little personal experience. I have a business, and this was a provincial matter, but when the province was switching to the HST, they sent out a number of people on the tax file and they visited our business, a dealership, and they targeted a certain area. It was obviously targeted to a certain area. It was an area that caught us in left field. They asked for papers—they did this to all the dealers—and the result was that after two days they just handed us a bill for something like \$218,000.

Somebody said death and taxes are the two certainties in life. We all know that we have to pay taxes, and most businesses have good people to make sure that we don't get hit by these surprises. But is this the sort of thing this bill will guard against? The NDP, God bless them, seem to think it's all one side. That's why we need a good balance here.

It isn't just that people aren't paying their taxes. I firmly believe that most industries, most individuals, are prepared to pay their fair share. But the other side of the coin is that it seems as though, when there is no clarity in the law, government really has the upper hand. Am I not right by saying that? They can come in and cause firms that didn't expect it, who have paid taxes, to suddenly get charged with another tax, which will really disrupt their business and cause some hardship. It could even cause failure. Am I right when I say that?

Hon. Ted Menzies: Through you, Mr. Chair, I think we all know that Mr. Van Kesteren is an upstanding citizen who always pays his fair share of his taxes, so I'm surprised that there was a shortfall in his contribution to the taxes of the Ontario government. I'm sure it was an oversight.

But you make a very good point. It is certainty that people need. It is certainty that businesses require. They need certainty in the amount of taxes they have to pay.

What we've done, I would suggest, has played a very positive role in reducing taxes for businesses, but by doing that we also expect them to pay their fair share of taxes. If they don't know what the legal ramifications are, or if they don't know what the tax act actually specifies, whether it was....

When it's tabled in the House of Commons, it's basically assumed by CRA that they can collect the taxes. Businesses, and the accounting firms that you employ, are not quite so certain.

So to your point, it is about certainty and about businesses being able to count on those decisions being made. That's why it's necessary to get a technical bill like this passed, so that there is certainty for those businesses and they know what they can plan on.

• (0925)

Mr. Dave Van Kesteren: We learned at the last meeting just how complex this is. I forget who mentioned it, but they talked about air miles. When you're travelling a certain period or distance, suddenly the air miles kick in.

You know, it's this sort of stuff that the average individual wouldn't dream of.

Hon. Ted Menzies: I don't think you're referring to Aeroplan miles.

Mr. Dave Van Kesteren: Or whatever it was.

Hon. Ted Menzies: You're referring to the taxes based on an airline's travel over top of a specific province. There are different rates for different provinces, with different deductions for different provinces.

So it's not Aeroplan miles, just so everyone is clear.

Mr. Dave Van Kesteren: That's right, but the point is that it's a complexity that the average Canadian wouldn't even begin to think about.

Hon. Ted Menzies: It's very complex.

Mr. Dave Van Kesteren: I'm thankful for our bureaucrats and the work they do, but I would suspect, then, that when they're administering the budget act, these things would keep cropping up.

So this is on an ongoing basis. This act represents those sorts of things that have to be addressed, and this is what we expect, as Canadians, to have clarified.

Hon. Ted Menzies: Just very quickly, when I had the privilege of introducing the pooled registered pension plan legislation, I thought it would be a very simple process to bring that into compliance with the Income Tax Act. We had to open up the entire act, and in every place where it was written "Registered Retirement Savings Plan", we had to add "PRPP".

So it is far more complex than one would think on the surface.

The Chair: Thank you.

Thank you, Mr. Van Kesteren.

[*Translation*]

Mr. Côté, you have the floor.

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

I would like to thank the Minister of State for being with us.

Minister, my first question is on part 3 of Bill C-48 which is on amendments in respect of foreign affiliates. You could say that this is a philosophical question because, in this part of the bill, the rules on loans between different components of a same multinational company are tightened and a framework is provided for the provisions on non-competition.

As part of the committee's study on tax havens, on which we are cooperating very well, we are looking at elements that are in part related to Bill C-48, such as transfer pricing and other similar issues. When you have some knowledge of economics, you really understand—whether you are an entrepreneur or a multinational company—that it is difficult to deal with the uncertainty and insecurity related to free markets. That is why everyone tends to want to reduce the level of insecurity.

However, multinationals that are oligopolies or even monopolies may start behaving in ways that are morally questionable. This is where my question becomes philosophical. You get the impression that the objective of part 3 is simply to limit the damage instead of dealing with the real problems, particularly the fact that these businesses have perfectly legal loopholes.

Do you believe Bill C-48 goes far enough to fight this kind of practice?

[*English*]

Hon. Ted Menzies: Thank you.

You obviously understand this in-depth. That's part of the reason that I applaud your efforts here at the committee. There probably is a lot more we can do, but at this point, these amendments with respect to foreign affiliates and the revisions of the affiliate reorganization and distribution rules, we think, are certainly a step in the right direction. The officials can probably expand on that. We're suspending certain gains from the sale of shares.

It's a grey area, there's no doubt about it, but I don't know if I would go so far as to suggest that our companies operating outside Canada do not keep their moral standards high. I would suggest that they do. I think we've got some great Canadian companies working abroad, but we need to make sure that our rules are in place so there is no tax avoidance or aggressive tax behaviour.

Perhaps our officials....

●(0930)

Mr. Shawn Porter (Director, Tax Legislation, Department of Finance): I just want to take a moment to clarify that the international measures in parts 2 and 3, and 3 in particular, as you refer to, are viewed more as integrity measures. The upstream loan and the hybrid surplus rules that I think are implicit in the question run to the kinds of supporting rules that a tax system needs, where the international tax system has a deferral and credit element. You defer current taxation and you impose additional tax in Canada potentially on repatriation. That's not a change in the general structure or policy of the existing international tax rules. It's an integrity measure to make the existing policy framework work properly.

The transfer pricing rules are outside the scope of Bill C-48. They're contained in section 247. And you're quite right, that's a significant component of international tax system design, but that's not the subject matter of Bill C-48.

As for offshore planning by multinationals generally, there's a continual dialogue in the international community in which Canada plays a role and participates. For example, at the OECD at present there is work being done on base erosion and profit shifting, and the transfer pricing rules of Canada and any other country play into that. Those are the subjects of ongoing and continual study by the department and by the government, but they are not part of the scope of Bill C-48.

[Translation]

Mr. Raymond Côté: Minister, you can obviously count on us to go further on this issue.

I have been doing my own income tax returns for 30 years. I started doing them when I was a teenager, and I learned from my father. However, I am always dismayed by the increasing complexity of these tax returns. While I am in favour of clarifying the rules in Bill C-48 and of including them in the act, it is still huge and I am still disappointed about that. There you go. I will stop there.

[English]

The Chair: Do you want to briefly respond to that, Minister?

Hon. Ted Menzies: Certainly we've heard many times from the accounting firms that we should simplify the Income Tax Act. Then, in their next breath, they say if you give a tax credit to my client, I'd be happy.

The Chair: Thank you.

Mr. Adler, please.

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

Minister, thank you so much for being here today. I know your schedule is jam-packed. We really appreciate your time here, and thank you for working so hard on behalf of Canada.

I want to pursue a line of questioning on the real estate investment trust in part 5 of the technical tax amendments. But just before I do that, I want to reiterate what Mr. Van Kesteren said and clarify a couple of points. One is that, as Mr. Van Kesteren has said, the opposition keeps putting forward speakers—and through you, Chair, I say to Mr. McCallum, you should be listening to this carefully—to delay a bill that is clearly a no-brainer.

Also, in 2008, as Mr. Van Kesteren said, under the Liberal-dominated Senate, a bill was put forward and was delayed by your party—through you, Chair—to delay the bill. Certainly there's your share of responsibility.

On the real estate investment trust, Mr. Minister, there was a lot of consultation that took place to propose those amendments. Could you talk about the consultative process a bit and how extensive that really was?

Hon. Ted Menzies: Thank you.

Through you, Chair, it was extensive. Some of the officials yesterday were explaining the complexity of and the depth with which their consultations took place with those involved. These are very complex rules just specifically to do with REITs, as they're referred to. We need to make sure they apply properly.

Through back-and-forth consultations over a great length of time, this legislation will allow REITs to hold up to 10% of the equity value of non-qualifying property, clarifying that mortgages and similar securities that could not be held as part of the REIT's qualifying ancillary property.... Now, if that isn't technical enough for you, Mr. Adler, I'm not sure what needs to be.

But the fundamental requirement was to maintain the character of REITs and the original intent of REITs, allowing REITs to earn what is referred to as “good revenue”. The gains derived from foreign currency fluctuations are also protected in this.

That is a reflection of what the consultations brought us.

I'll pass this on to one of our officials to perhaps explain it in depth if you wish.

●(0935)

Mr. Ted Cook: On your initial question, I can speak to the technical aspect, but just in terms of the consultation, I think the main thing to note, or the thrust of the REIT amendments in this bill.... I think you're referring to a set of draft amendments that was released in December 2010. Really, what these amendments are meant to do is reflect industry practice.

We introduced a set of rules around specified flow-through entities and real estate investment trusts, the SIFT rules, and it was brought to our attention that perhaps some of the rules didn't reflect industry practice. For example, a real estate investment trust might earn some actual business income, as opposed to property income, because they run a parking lot. It's to take into the account the nature of the relationship between major tenants in a mall—those types of things.

The Chair: You have one minute.

Mr. Mark Adler: Chair, I'd like to give my one minute to Ms. Glover.

The Chair: Ms. Glover, please.

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

Thank you, Mr. Chair.

Minister, I think you're going to witness some collaborative efforts here in the finance committee. History is about to be made—

Hon. Ted Menzies: We used to do that all the time.

Voices: Oh, oh!

Mrs. Shelly Glover: I hear on all sides how enthusiastic we are about just passing this bill.

The speeches are being heard in the House at this very moment and are repetitive. There really are no questions about the content. Everyone is talking about how long it has taken, for so many years, and why we haven't moved forward. Mr. McCallum is here, and I'm glad to see him here wishing that we could move this forward even faster.

I would ask both parties here today to come back to this committee the next time we're in session and tell us that we are going to have your unanimous consent—through you, Chair, of course—to move this forward to the Senate, following committee, so that we can stop these delays. We've had seven hours of speeches so far by the NDP, with the same thing over and over again, and some days the Liberals put some up and some days they don't.

Minister, I'm really hopeful that we will see a vote of confidence on the other side of this room and that they will come back to committee next time and say we have unanimous consent to proceed.

The Chair: Minister, do you have a brief comment?

Hon. Ted Menzies: Only that I wish you luck.

Thank you.

Voices: Oh, oh!

The Chair: Thank you.

Mr. Rankin, please.

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

Thanks to you, Mr. Minister, and to your officials for being here today.

I have a question on process, and I hope in the question time available a question on substance for Mr. Porter.

I'd like to read to you from something written by a tax lawyer at Thorsteinssons in my jurisdiction in British Columbia. Referring to the 900-page bill, Mr. McDonnell wrote:

This Bill will also be passed without much in the way of informed debate in the House. Most parliamentarians voting on it will admit that they have not read it, let alone tried to fully understand the consequences of voting for (or against) it. This is not how Parliament is supposed to deal with one of its essential functions—the raising of revenue. It's sad to say it, but I don't think most of our parliamentarians understand this aspect of the role of Parliament, or, if they do, have the courage to go to the wall in defending it.

Given that this has been one bill of almost 1,000 pages, do you see a better way forward so that parliamentarians can deal with the content of this bill?

● (0940)

Hon. Ted Menzies: Mr. Rankin, I agree that in the future, barring unforeseen circumstances, we will certainly attempt to bring forward smaller pieces of legislation that are more consumable by parliamentarians. I would suggest that all parliamentarians are not necessarily tax experts. In fact, few of us are, and I think, Mr. Rankin, you probably understand this sort of legislation as well as anybody here, which is good. But I don't think we're expected to be. We depend on officials who are experts in this to be able to explain it to us, and I think that's their role here, to explain the details. Our role as parliamentarians is then to decide whether that's a good policy to put forward or not.

But certainly, going forward, we hope that smaller pieces of legislation will be brought forward on a more regular basis.

Mr. Murray Rankin: Thank you, and Mr. Chair, if I may ask you to identify when I have one minute left, I'd appreciate that.

This is for Mr. Porter, if I may, sir. To what extent do Canadian taxpayers use non-resident trusts and foreign investment entities for tax avoidance purposes? Which of those vehicles is more popular for those purposes?

Mr. Shawn Porter: It's a good question and a difficult question. I don't know that the matter gets studied in those terms. Rather, the focus in developing the legislation is to maintain a neutral and balanced playing field. So fundamentally, the foreign investment entity rules and the non-resident trust rules are companions to the foreign accrual property income system rule that applies to controlled foreign affiliates of Canadian-based multinationals.

All of those regimes are aimed at situations whereby taxpayers resident in Canada would transfer income-earning property to foreign intermediaries, be they non-resident trusts, controlled foreign affiliates, in the case of the FAPI rules, or a non-controlled foreign affiliate, in the case of foreign investment entity rules, as they were at one time called; they are the offshore investment fund rules because those rules were not fundamentally changed, and that's reflected in Bill C-48.

Mr. Murray Rankin: How much money through taxation does the CRA or Finance get from the taxation of these two entities, NRTs and foreign investment entities? How much per year? Is it a significant amount, or can you estimate it?

Mr. Shawn Porter: I'd have to get back to you with the actual amounts. Generally speaking, those rules are often referred to as prophylactics; that is to say, if there is nothing to be gained by making an investment in an offshore investment fund, i.e., if the Canadian resident cannot achieve the tax deferral objectives they would otherwise seek to achieve, then they will stop. The behaviour will stop, and they would make an investment in a property that throws off current taxable income.

The Chair: You have one minute.

Mr. Shawn Porter: Often those prophylactic measures are integrity measures. They don't raise revenue, but they prevent an erosion of the tax base that would arise absent the measure.

Mr. Murray Rankin: I understand. Thank you, sir.

The Chair: One minute left.

Ms. Nash, please.

Ms. Peggy Nash: Thank you, Mr. Chair, and thank you, Mr. Rankin, for sharing your time.

Mr. Chair, I'd like to give notice of the following motion:

That the Standing Committee on Finance

a) undertake a study to examine rising household debt in Canada, including, but not limited to: the root causes of rising household debt, the nature of household debt in Canada, and the social and economic impacts of high household debt levels;

b) that the Committee make recommendations to the Government of Canada to address rising household debt levels;

and c) that the Committee report its findings to the House of Commons.

The Chair: Thank you. We will accept that as a notice of motion.

Mr. Rankin, you have four seconds left.

Mr. Murray Rankin: Sir, may I give a notice of motion as well?

The Chair: Okay. I will accept a notice of your motion. Make your motion very quickly, please.

Mr. Murray Rankin: Thank you.

That the Canada Revenue Agency provide the Standing Committee on Finance with information pertaining to estimating the Canadian Federal Tax Gap, including but not limited to:

a) data or information regarding the difference between reported and assessed employment, dividend, and interest income for an anonymous random sample of T1 and T2 tax filers;

b) any estimates held by the CRA regarding "collectability" of resulting reassessments and the rates of "non-detection" of incorrect returns through audit;

c) any other information held by the CRA pertaining to the preparation of a Tax Gap estimate and;

d) that this information is shared with parliamentarians and the Parliamentary Budget Office so that an attempt to estimate the Tax Gap can be made through other means as the CRA does not prepare Tax Gap estimates.

● (0945)

The Chair: Thank you.

We'll accept that as a notice of motion.

Are there any other notices of motion by members?

Okay. Thank you, colleagues.

I want to thank you very much, Minister Menzies, for your appearance here today, for your presentation, and for responding to our questions. I want to thank your officials as well. Thank you for that information.

I would add, as your chair, with any friendly persuasive powers that I have, that if we could get this bill to committee.... As members on both sides have pointed out, it is still being debated at second reading in the House. I would like to have this bill at committee as soon as possible so that when we get to clause-by-clause, we will actually be able to deal with the clauses of the bill in this committee. I hope members on both sides will take that back to their parties.

Minister, thank you so much for being with us.

Colleagues, we will suspend for two minutes while we bring our next witnesses forward.

Thank you.

● (0945)

(Pause)

● (0950)

The Chair: I call this meeting back to order. Thank you, colleagues. I will ask you to find your seats, please.

We're very pleased to have with us three witnesses to discuss Bill C-48, the technical tax bill that we were discussing previously with Minister Menzies. We have the Canadian Institute of Chartered Accountants with us here today, the Canadian Tax Foundation, and the Office of the Auditor General of Canada.

I understand each of you has opening remarks. We will start with the Canadian Institute of Chartered Accountants for your five-minute opening presentation.

Mr. Gabe Hayos (Vice-President, Taxation, Canadian Institute of Chartered Accountants): Thank you very much.

Good morning. My name is Gabe Hayos, vice-president of taxation for the Canadian Institute of Chartered Accountants. On behalf of Canada's 82,000 chartered accountants, thank you for the opportunity to appear before this committee. In my role as vice-president of taxation, I oversee the activities of CICA tax committees, including the CBA-CICA joint committee on taxation, which is a joint committee of chartered accountants and tax lawyers, the CICA tax policy committee, and the CICA commodity tax committee.

Prior to joining the CICA in 2011 as its first vice-president of tax, I was a partner with KPMG, with a primary focus on international tax and mergers and acquisitions. I'm also a past governor of the Canadian Tax Foundation.

I'd like to note at the outset that we appreciate the opportunity to work closely with Finance Canada with respect to current tax laws and regulations, as well as on future legislative initiatives. Indeed the CBA-CICA joint committee on taxation has commented over the years on most of the elements of Bill C-48, including the foreign affiliate rules, the non-resident trust rules, and the specified investment flow-through entity rule, just to name a few.

Bill C-48 marks the end of a very long road, one with many twists and turns over the years. The last technical bill on income tax received royal assent in 2001, as you've all heard. Mr. Chairman, I think it is fair to say that we greet the technical tax amendments act of 2012 with a sense of relief. We support Bill C-48. The CICA understands how important it is for taxpayers to have greater certainty and a clearer understanding of Canada's federal income tax system.

Also, as you've heard many people refer to the Auditor General, we will as well. As former Auditor General Sheila Fraser observed in her 2009 report on income tax legislation:

- For taxpayers, the negative effects of uncertainty may include
 - higher costs of obtaining professional advice to comply with tax law;
 - less efficiency in doing business transactions; ...
 - greater cynicism about the fairness of the tax system; and
 - increased willingness to use aggressive tax plans.

Bill C-48 helps improve clarity and certainty, and it mitigates the negative effects of uncertainty identified by the Auditor General.

It is a simple truth, however, that striving for clarity and certainty never ends. The CICA supports the policy of technical tax legislation being tabled for review and adoption by Parliament on a regular basis, so that we do not accumulate unpassed legislation for a number of years and thus exacerbate the problem of tax complexity and uncertainty.

In closing, as we think about the future, the CICA sees an ongoing need to address the issue of tax simplification. We suggest a two-part approach.

First, create an office of tax simplification, similar to the model that was adopted by the U.K. in 2010. This office would focus on simplifying particularly complex and vexing parts of our current system.

Second, establish an expert panel or even a royal commission on tax reform to conduct a full-scale examination of our tax system and recommend how we can ensure that tax laws are certain, predictable, and fair, so that taxpayers can order their affairs intelligently.

We believe these twin initiatives would send a strong signal of the government's commitment to clarity and certainty in our tax system and would be well received.

Thank you for your time. I would be pleased to respond to your questions.

The Chair: Thank you very much for your presentation.

We'll now hear from the Canadian Tax Foundation, please.

● (0955)

Mr. Larry F. Chapman (Executive Director and Chief Executive Officer, Canadian Tax Foundation): Good morning. *Bon matin.* I'm going to stop there with my French language skills, because they're limited.

Thanks for the invitation to appear before this committee today.

My name is Larry Chapman and I am the executive director of the Canadian Tax Foundation.

Before joining the foundation in 2008, I was national managing tax partner at PricewaterhouseCoopers. Before that I was a senior tax executive at a large multinational consumer products company based outside of Canada.

The foundation was established in 1945 as an independent tax research organization under the joint sponsorship of my friends at the Canadian Institute of Chartered Accountants and the Canadian Bar Association. The foundation provides a unique forum for our members to work together for the betterment of the Canadian tax system and the tax profession in general.

We have in excess of 10,000 members who are drawn from the legal and accounting professions, industry, academia, and the Government of Canada, including the Canada Revenue Agency, the judiciary, and the Departments of Finance and Justice.

The foundation has long been respected—and I will muster all the modesty I can—by government policy makers and administrators for its objectivity, its focus on current tax issues, its concern for the improvement of the Canadian tax system, and its significant contribution to tax and fiscal policy debates in the country. I say

this because we get confused with the Canadian Taxpayers Federation on a regular basis.

The Canadian Tax Foundation is not an organization—I repeat not an organization—that lobbies governments on behalf of our members. Given the diversity of our membership, it would be impossible to reasonably represent a collective viewpoint. In contrast, we take pride in providing forums where all well-reasoned and well-supported views on all sides of an issue can be expressed. Our primary concern is the promotion of policies and practices that improve the equity and efficiency of the Canadian tax system.

More than 80% of the government's revenue is collected under the Income Tax Act and the Excise Tax Act. Like a home or a car, these two statutes need to be repaired and maintained in order to properly serve their purpose. We live in a rapidly changing world, and this legislation must respond dynamically to changes in commercial transactions. Can you imagine how much work would be required if you made no repairs to your home or your car for more than 10 years? That is what has happened with these two statutes. The last bill addressing technical amendments was passed in 2001.

Bill C-48, the Technical Tax Amendments Act, 2012, the so-called tech bill, is a massive piece of legislation. I actually brought a copy with me. I needed a briefcase with wheels to get it here. It's a massive piece of legislation, but it represents 10 years of repairs and maintenance in updating the Income Tax Act and the Excise Tax Act. Its passage is important to all Canadians. You heard that in the earlier presentation. I want to emphasize it again. Its passage is very important to all Canadians.

We've all referenced the Auditor General's 2009 report. I think one of the interesting things in the report that Vicki and her colleagues did is that this bill, in various forms, has been before the House on nine separate occasions. The Auditor General recommended passing technical amendments on a more timely basis. I think they implied that it should be annually, but certainly more timely would be useful.

The Standing Committee on Public Accounts, in its April 2012 report, recognized the joint responsibility of Parliament and the Department of Finance to pass technical amendments legislation on a timely basis. If I have time, Mr. Chairman, I'll quote from that briefly:

Parliament needs to share responsibility for ensuring that technical amendments are passed in a timely manner after they are introduced. The Department's responsibility is to put the government in a position to be able to table technical bills; after that, it is up to Parliament to ensure that they are passed.

There are a number of reasons why it has taken this long to bring the legislation in Bill C-48 before Parliament. We've heard about that in the prior sessions. Delays in the passage of tax legislation leave taxpayers and their advisers in a no man's land of uncertainty. My message for the Standing Committee on Finance is that you should encourage passage of this legislation, and in the future you should welcome and encourage the timely submission of technical legislation to update and improve these important statutes. This is an issue on which taxpayers, parliamentarians, and the Department of Finance can work together for the benefit of all Canadians.

Thank you. I'd be pleased to answer your questions.

•(1000)

The Chair: Thank you very much for your presentation.

We'll now hear from Ms. Plant from the Office of the Auditor General of Canada, please.

Ms. Vicki Plant (Principal, Office of the Auditor General of Canada): Mr. Chair, thank you for this opportunity to join this panel to discuss chapter 3 of our 2009 fall report in relation to Bill C-48, which is before you now.

In our chapter on income tax legislation, we focused on activities within the Department of Finance Canada and the Canada Revenue Agency that helped to provide or improve legislative clarity for both taxpayers and tax administrators. We have not audited this subject since our 2009 chapter, so we have no view on specific measures in Bill C-48.

[Translation]

During our audit, we reviewed the way the Department of Finance develops technical amendments to be tabled in Parliament. These amendments are aimed at correcting discrepancies identified after the implementation of initial tax measures and getting rid of some unintended consequences. They are not aimed at bringing in new tax policies or amending an existing policy.

In addition, we reviewed how the Canada Revenue Agency helps the Department of Finance determine which technical amendments to make to the act and how they should be formulated. We also reviewed how the agency provided its tax auditors and taxpayers directives on the enforcement and interpretation of the Income Tax Act.

[English]

Our system of income taxation depends on taxpayers self-assessing their tax obligation based on a clear understanding of the law. Legislative clarity is important if taxpayers are to easily self-assess and correctly calculate their taxes. When the intent of the legislation is not clearly conveyed by the words, taxpayers may face higher cost to obtain professional advice, may be more willing to use aggressive tax plans, and may need to re-file a tax return at additional cost.

Uncertainty about how the tax law should be interpreted can also affect the efficiency of tax administration. For example, there are higher costs for the agency to provide additional guidance and interpretation to taxpayers and tax auditors. There are also increased administrative costs for the agency to obtain waivers from taxpayers to extend the limitation period for audit reassessments until the uncertainty is resolved. It may even result in lost tax revenues.

In 2009, we found that the list of outstanding technical amendments to the Income Tax Act had been growing and that no income tax technical bill had been passed since 2001. At the time of our audit, there was a backlog of at least 400 technical amendments. Some of these were included in proposed legislation that was first tabled in 2002 but was not enacted.

[Translation]

Following our audit, we recommended that the Department of Finance develop and implement a plan to clear the backlog in terms

of required technical amendments. We also recommended that the department develop and publish draft technical amendments regularly so that taxpayers and tax experts can find out what kind of changes will be made and provide feedback on them.

Mr. Chair, when the Department of Finance determines that some changes have to be made to the Income Tax Act, it is important that legislative changes be tabled in the House of Commons promptly. If the proposed legislative amendments are not tabled regularly, they accumulate and turn into a raft of amendments that taxpayers, tax experts and parliamentarians have trouble processing.

[English]

Creating a package of technical changes is a start. In the past, the government said that an annual technical bill of routine house-keeping amendments to the act was desirable. Your committee may wish to ask Finance Canada how the department plans to keep the Income Tax Act up to date in the future.

Mr. Chair, that concludes my opening statement. I would be pleased to answer your committee's questions.

The Chair: Thank you very much for your presentation.

We'll begin members' questions with Mr. Rankin, please.

Mr. Murray Rankin: Thank you, Chair.

Thank you to all of you for attending today.

I'd like to focus in on comfort letters a little bit, if I could.

Just to put it in context, apparently there were some 250 comfort letters included or addressed in Bill C-48, some of them dating back to 1998, that are now included. I guess I'd ask, if I could, Mr. Hayos or Mr. Chapman, is this comfort letter process working for practitioners? Is it user-friendly?

Mr. Gabe Hayos: The first comment is that I think it is useful for taxpayers and tax advisers to know the Department of Finance's position, so in that sense I think it is working very well, and it's very much appreciated. Clearly, what isn't working well is if a comfort letter gets issued at one time and it takes an undue period of time to get passed; Then you have the issue we've described of uncertainty. So there's good in it, but it needs to be addressed on a timely basis.

•(1005)

Mr. Larry F. Chapman: Mr. Rankin, I'll probably just comment on the good, because I agree with what Gabe said.

One of the strengths of the Canadian system and in the Department of Finance—I'd like to congratulate them—is that they are open to meet with taxpayers who find that the act does not work the way it was intended to work or the way everybody expected it to. The comfort letter process is a very important process for making the system function better. It's something that certainly the tax community values.

Mr. Murray Rankin: Ms. Plant, I wonder if you could comment, from your perspective, on how effective you think the comfort letter process is.

Ms. Vicki Plant: We certainly found in our report in 2009, after interviewing 54 practitioners, that the comfort letters were definitely an important part of the process. They keep the tax system working. Until the legislation is passed, it at least allows taxpayers to go ahead and do the transactions they were planning, and they can be assured, provided the legislation is eventually passed, that the tax result is the desirable one.

Mr. Murray Rankin: This is a question, if I may, for Mr. Hayos, and I'd invite others to comment. It's not from your organization; it's from the CGA. Denis St-Pierre, chair of the tax and fiscal policy advisory group said last year in testimony:

Second, we strongly feel that implementing a sunset provision would ensure that tax amendments are legislated, which ultimately will eliminate the ever-growing backlog of unlegislated tax measures once and for all. With this provision, if a tax policy change is announced and not incorporated into legislation within a reasonable amount of time, the measure would lapse.

It goes on to say, "This would bring greater clarity...", and so forth.

Would your organization support a sunset provision, as he proposed?

Mr. Gabe Hayos: Just to be right up front, I'd say no. Certainly, we support what's been stated before, and you've heard time and time again that regular passing of technical amendments is important. But you have to realize that there are different circumstances, and to put undue pressure on something to just pass it or not have it passed might in fact cause greater delays or problems. We see the issue of sunset clauses in the U.S. and some of their debates.

What has to happen here is just regular passing of the legislation. Sometimes there are unusual circumstances that require greater consideration, but certainly regular passage is what we think is appropriate, not a forced sunset clause.

Mr. Murray Rankin: Do either of the other witnesses have any comments?

Mr. Larry F. Chapman: I'd echo Gabe's comments. A one-size-fits-all rule doesn't necessarily work well. I think it's important that the legislation be passed on a timely basis, and as I said in my opening remarks, it's a shared responsibility between Parliament and the Department of Finance to make sure that happens. The sunset clause might be a blunt instrument, which might not serve either Parliament or the taxpayers well in the long run.

The Chair: You have 30 seconds.

Mr. Murray Rankin: This is for Ms. Plant.

The Auditor General did a report in 2009, which has been very helpful to the committee. Has there been ongoing dialogue with the finance department and others on the issue of transparency or on this issue in particular of the mammoth bill we have been faced with? Since then, have you had any input into the process?

Ms. Vicki Plant: We haven't had any particular conversations about this bill, Bill C-48, in particular. We do follow up our recommendations. We've had both the Canada Revenue Agency and the Department of Finance provide an assessment of their progress with our recommendations, and as one of the finance officials mentioned earlier this morning, the internal audit branch at the Department of Finance did a follow-up report as well on progress on our recommendations.

The Chair: Okay. Thank you.

Thank you, Mr. Rankin.

Ms. Glover, please.

Mrs. Shelly Glover: Thank you, Mr. Chair.

Welcome to the witnesses.

I'm going to follow up on what was just said and ask you this, Ms. Plant. What is your assessment, or what is the Auditor General's assessment, of how well Bill C-48 deals with the recommendations that were made in 2009? Have we done a good job in Bill C-48 of dealing with those recommendations?

Ms. Vicki Plant: Again, we haven't done a follow-up in terms of whether all the necessary technical changes have been included in Bill C-48. As I said in my opening statement, certainly it's a start. It does contain a number of the amendments.

We had recommended that packages of technical changes be distributed regularly for comment, and obviously tabling them in the House is the final step in that process.

Mrs. Shelly Glover: I also want to ask about the comfort letters, if I could follow up on that as well. In 2009 some indicated that there were about 250 comfort letters outstanding. I'm just curious to know. Do you feel that Bill C-48 deals with all of those comfort letters?

•(1010)

Ms. Vicki Plant: Again, we haven't gone back to see if all the comfort letters have been addressed in this bill. I think the Department of Finance officials could give you a more accurate response there.

Mrs. Shelly Glover: Okay, thank you.

Mr. Hayos, we talk a lot about those who are involved in the profession, financing, taxes, and that kind of thing, and how important this bill is to them, but how does it affect the average Canadian? Can you tell us, for those listening, the average Canadian, how does this technical tax bill benefit them?

Mr. Gabe Hayos: I think it's been described previously. I think the average Canadian is benefiting because the advisers who they may have to use now have greater certainty in the legislation, so the cost of complying with the legislation is that much easier.

Mrs. Shelly Glover: I really appreciated when Ms. Plant was doing her opening statement, as she addressed costs to the government. When there are delays and administration is more complex, cost to the government increases. Would you also say that there could be some savings for the average Canadian because of the simplification made possible by Bill C-48?

Mr. Gabe Hayos: I think it's hard to call 1,000 pages of legislation simple. I think they've improved legislation, made it clearer where they had to go; I think that's where you're getting your savings. This is a complex set of legislative changes. I think that's the real benefit we have from this technical amendment.

Mrs. Shelly Glover: Very good.

Mr. Chapman, I'd like to give you an opportunity to address that very same question.

Mr. Larry F. Chapman: I think a lot of the legislation in Bill C-48 deals with more sophisticated issues and more sophisticated taxpayers. What probably impacts on the average Canadian much more directly is the annual budget bills, which Parliament has been dealing with.

There are aspects of the bill that affect the average Canadian, and Minister Menzies has talked about the split receipting rules and the charitable donation area. That would impact on a lot of Canadians. But I think if you looked at the bill as a whole, it's dealing with difficult, complex, and sophisticated issues for the more sophisticated taxpayers in our country.

Mrs. Shelly Glover: I do want to thank you for bringing up and making it clear that there have been nine other attempts, which is what you said in your statement, to bring these technical tax amendments forward in Parliament. And I do appreciate each of you taking the time to encourage members of this committee to move this forward in any way possible. I do hope you will be in constant contact with any parties that may appear to be delaying. I would hate to think that's actually going on, but we know that in Parliament that does in fact play a part in being opposition. But we do want to see this pass in a timely manner, so I appreciate your comments in that respect.

Thanks.

The Chair: Thank you, Ms. Glover.

Mr. McCallum, please.

Hon. John McCallum: Thank you, Mr. Chair.

Before asking questions, I would just like to clarify points raised by two of my government colleagues at the last session. It is true that the then Liberal-dominated Senate delayed this bill once, but it's important, I think, to understand why. The primary reason is they discovered a feature of the previous bill, which is not in the current bill, which allowed the minister to arbitrarily deny tax credits to certain firms, and I seem to recall Mr. Charles McVety talking about firms that were not sufficiently Christian that should be denied such funding. So I commend my Senate colleagues for discovering this feature and blocking it.

The other point I would make to Ms. Glover is that I think the reason for delay of this bill in the House right now has to do with overall politics among the House leaders. I would suggest to her that she might talk to Peter Van Loan, her House leader, because I think the resolution of this matter is largely in his hands, depending on his overall behaviour. I think such a conversation would be useful.

Now if I may, I'll ask a question to Ms. Plant. In terms of the time it takes for CRA, their objective is 60 days, but, as you know, it's going in the wrong direction to 101 days, and most recently 106. I wonder if you could describe to us what you think are the main reasons for going in the wrong direction and what actions could perhaps be taken to make the delay go in the right direction, i.e. down.

• (1015)

Ms. Vicki Plant: You're talking about income tax rulings and the length of time to issue an advance income tax ruling.

Hon. John McCallum: Yes.

Ms. Vicki Plant: As we showed in our chapter, it has gone from an average of 60 days to an average of 101 days. One of the reasons given is that the transactions were becoming more complex, so by their very nature they're taking longer to handle the ruling request. Another reason, I believe, is that, as we have said, 61% of the current staff were new. They hadn't worked there since 2004, so there had been a fairly high turnover, and I think part of it was getting staff up to speed. I would imagine that more experienced staff certainly helps the problem.

Mr. Gabe Hayos: Could I comment on that? I would tell this committee that I've been dealing with the director general, Mickey Sarazin, on this issue. He's come to the joint committee on taxation to actually look for our suggestions on improving the timeliness of these rulings.

First, I know that they have hired a number of new rulings officers, and, second, they've looked to suggestions from the CBA-CICA joint committee. You have to understand that the ruling process is a little like going to an emergency hospital room where people might use it for the wrong purpose. We made suggestions on how they can deal with it, so that they limit the number of people who aren't using the rulings for the right purpose and so that they can focus on the right questions being asked. I think they've taken some very good positive steps, and more are to come.

Mr. Larry F. Chapman: Mr. McCallum, I would agree with that too. I think some of the problems have been that the taxpayers have found it convenient to call the agency when they have questions. They've had a line where they've spent a lot of resources answering those questions. They've changed their approach, and I think that's probably a good thing in the long run. From my experience, I can echo Mr. Hayos when he says they're working on this. They're very alert to the issue and are trying to improve.

Hon. John McCallum: That sounds reasonably positive. Do you think within, say, the next year we can expect to see concrete improvements in that time?

Mr. Gabe Hayos: I'm not in a position to tell you specific timelines. I can tell you that these suggestions, of which the joint committee has given 10 specific ones, have been taken to the most senior levels of the CRA, and certainly with some exceptions they're generally supportive of it and the process is going through. So I can't say it's a year, but I can say that some things we'll see sooner and some things may take a little longer, because there are complex aspects to them.

Hon. John McCallum: Thank you.

I'm told I have a very brief amount of time left.

I hear two of you at least were opposed to the idea of a sunset clause. Do you think it would be a good idea if Finance made some undertaking that this kind of bill would occur on an annual basis?

Mr. Gabe Hayos: I certainly have no problem with some undertaking that they make all reasonable efforts to bring forward legislation. You would hope that annually is the minimum, but, frankly, there may be times when you would introduce something even more frequently because of the circumstances. So an undertaking to do it would be.... I just don't think it should be a legislated sunset clause.

The Chair: Mr. Chapman, what are your brief comments on that?

Mr. Larry F. Chapman: I agree that annually would be good. It may not always be possible to do it annually, but certainly I would say there's no reason why we couldn't see it every two years. I think annually would be a good target.

The Chair: Thank you.

Ms. Plant, do you want to comment on that? No, okay.

Thank you, Mr. McCallum.

Go ahead, Ms. McLeod, please.

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

I hate to do this, but I guess we always have to do a correction to the correction in terms of some general comments. I do have to note that it was, I believe, John Manley and Sheila Copps in 2003 who actually introduced that particular issue around the film tax credits. Then the Senate in Bill C-10, of course, did not choose to remove a portion that was a concern. They actually chose to block the advancement of the legislation. Again, I apologize, but I think it is important to have full and accurate information on the record in terms of some of the history, because history is always important.

I really appreciate hearing the comments about having a regular update to the legislation. I believe that everyone here agrees that regular... I take note of your comments regarding the sunset, and I also take note of your comments regarding the comfort letters. You may or may not be aware that currently our committee—not in this particular initiative—is looking at tax evasion and the use of offshore tax havens. I know there are some significant pieces in this legislation that are actually tackling that.

I guess I would ask Mr. Chapman, of course, and perhaps Mr. Hayos to maybe flag how they're actually working well together in moving forward on that important issue.

• (1020)

Mr. Larry F. Chapman: Gabe and I have talked about this a little bit in terms of the need for clarity around whether we're talking about tax avoidance or tax evasion. Tax havens are used for all kinds of purposes. Some of them are less than desirable for the tax system and fall into the evasion camp. Others would probably fall into avoidance, and some might well be absolute legitimate uses.

We have a robust set of rules right now around the way foreign income is taxed. There are taxing rules and there's also a robust set of disclosure rules. I encourage Parliament and the Department of Finance to always be looking at those rules and to consider whether they serve the purpose of the country.

You heard Mr. Porter earlier today say that the OECD is looking at the whole area of profit shifting and base erosion. Those are current things. I'm not sure that we need more rules.

I'll make this observation. In all of my time practising, I think I only ran into one instance where I saw somebody who I thought was a tax evader and I immediately didn't do anything with him. But every time I have repairs done to my house, somebody comes to the house and offers to do it for cash and they won't charge me GST or HST.

I think the focus on tax havens is important, and base erosion and profit shifting, but my personal view is that I wonder if sometimes we shouldn't be looking inside the country as much as we look outside.

Mr. Gabe Hayos: I would just make a few comments. First, as far as Bill C-48 is concerned, as you heard from the Department of Finance, it's primarily trying to ensure that it captures essentially the integrity of the current system. I don't think it's necessarily dealing with more broadly based things.

I would like to clarify this issue of the term "tax havens". I think it doesn't really serve a good purpose. First, I think you all appreciate that tax is one of the costs of doing business, and if countries can keep their tax rates low, it's a means of attracting real business. But what is important is that countries have open and transparent tax systems.

The Department of Finance has introduced rules that try to ensure that they give special recognition to countries that have open and transparent systems. As Larry said, you can't have people who are real tax evaders hiding income. On the other hand, if there are businesses that conduct real activities and they go to lower taxing jurisdictions, that's just one of the competitive advantages that country has. That's why we've been such a strong proponent of Canada keeping their corporate tax rates low and competitive, because it ensures both that companies stay here and other companies come here. I think that's the important point.

As Larry said, we have general anti-avoidance rules and transfer pricing rules. As you've heard, there are disclosure rules for aggressive tax planning that are introduced in Bill C-48. All this ensures that the large majority of taxpayers try to comply with the rules.

Mr. Larry F. Chapman: Those who are willing comply.

The Chair: Thank you.

You're just out of time, Ms. McLeod.

Mrs. Cathy McLeod: So it's fair to say you would encourage passage. There are no surprises. You would encourage quick passage.

Thank you.

The Chair: We'll take that as a wrap-up. Thank you.

Ms. Nash, please.

Ms. Peggy Nash: Thank you, Mr. Chair.

Welcome to all the expert witnesses here today. We really appreciate your taking the time to come before our committee.

For people watching this discussion at home, we are debating a 1,000-page technical tax bill that basically would enact changes that the government has already proposed and that essentially are being used right now but have not been passed into law. Am I correct in that?

• (1025)

Mr. Gabe Hayos: As you heard from the previous panel, which included Finance, yes, some people do and some people don't. In fact, this has been one of the issues, that it creates uncertainty. In fact, in some cases there are business transactions that don't get done because of the uncertainty. I would tell you that there's no consistent approach to this. Some have used the existing rules and some have relied on the proposed rules.

Ms. Peggy Nash: Right. This has been going on, I guess, for more than a decade. For about 12 years now we haven't had these technical changes.

Mr. Gabe Hayos: Yes. You've heard the suggestion that this may lead somebody to do aggressive tax planning, and that's for sure, but I would say that in my personal experience, more often than not it's not about more aggressive tax planning; it's about people who often can't do transactions because of uncertainty. That's even worse, because they're often good transactions.

Ms. Peggy Nash: Mr. Chapman, you said it creates kind of a no man's land where people really don't know. There's this grey zone.

Can one of you succinctly describe the purpose of comfort letters and what that means? Does it have the force of law, and how are comfort letters used?

Mr. Larry F. Chapman: To answer your last question first, a comfort letter does not have the force of law. You people have the force of law, and until you enact it, they are only comfort. That's why they're aptly named.

The thing that's very good about the system we have, Ms. Nash, is that over history it's been shown that when the Department of Finance issues a comfort letter and they can explain it to Parliament, Parliament almost always enacts it. I don't know that I can think of one instance where they haven't.

The purpose of the letter really is to provide comfort for an organization to know that the law will be changed, and that if they do something or if they've done something, they won't be on the wrong side of the tax law.

Ms. Peggy Nash: Now we just heard that it does create uncertainty. I think, Ms. Plant, you said that there could be a cost to this. Could there have been or could there be in the future an impact on GDP through failure to enact these technical tax changes?

Mr. Hayos, you said that perhaps there are businesses, investments, or deals that don't go through because there is lack of clarity. In other words, is it a negative for our economy that we don't have timely passage of these technical tax amendments?

Mr. Gabe Hayos: Absolutely. I'm not sure how you can measure the actual impact, but there's just no doubt about it.

Ms. Peggy Nash: We have three experts here who can advise us, both from the taxation aspect and from the government operations aspect, from the Auditor General's office. We've heard some of you say that it's difficult to set a hard deadline of annual updates. Someone suggested a sunset clause. We heard concerns about that.

What could we do, or what could this committee recommend, that would create a better framework for the government to act in a timely way, rather than letting more than a decade go by for these

technical tax changes? Is there some kind of change this committee could recommend?

The Chair: Mr. Hayos.

Mr. Gabe Hayos: Well, first the committee would have to recommend to Parliament that when technical legislation is brought forward, it is actually given serious consideration and attention. And perhaps this committee could also, from time to time, if they haven't heard from Finance, actually ask Finance what the status of it is.

Ms. Peggy Nash: I have just one last quick question, perhaps for the Auditor General. Do you think the government's plan to reduce CRA staff by 3,000 people could have an impact on the speedy updating of these technical tax changes? We heard the Minister of State talk earlier about limited capacity, and that's one of the reasons he points to for not making these changes for more than a decade.

• (1030)

Ms. Vicki Plant: I'm not sure I can speak specifically to the impact that would have. Certainly I would expect that like any other agency or department that's facing cuts, they would try to do the cuts in the areas that would have the least impact on the actual operations.

The Chair: Just very briefly; we're over time.

Mr. Larry F. Chapman: Back to what this committee can do, I think it might be useful to have a timetable of when we're going to check in with the Department of Finance on technical legislation at a specific time of year. The fall is an excellent time of year to do that, particularly given their workloads. They brought this bill forward in October, so maybe that's a good time.

The Chair: Thank you, Ms. Nash.

I'm going to take the next round as the chair.

I want to compliment all of you on your presentations. I appreciate the clarifications with respect to the process. Ms. Plant, I very much appreciated paragraph 3 of your statement, where you say:

Technical amendments are changes made to correct anomalies that arise after the original tax measure was passed and to correct consequences that were not intended. These amendments do not introduce new tax policy or change existing tax policy.

I think that's important for anyone following these hearings. When I told people in my riding that we were debating a 1,000-page tax bill, they got very nervous. They think somebody may want to increase their taxes, which is absolutely not the case. This is not changing tax policy. So I appreciate that clarification.

I did want to follow up with you on the point you made in paragraph 8, in reference to your recommendation that the department regularly draft technical amendments and release them to the public. We have the process with respect to the comfort letters, and then you have the process with respect to legislation. But what all three of you would probably recommend is that the department continue to draft legislation, put it forward, allow for input from the public and experts such as yourselves, modify or amend that as necessary, and then introduce tax legislation. I think that would be the process you would recommend.

Ms. Vicki Plant: It was certainly part of our recommendation that the draft legislation be released for comment so that practitioners could provide input. That's an important part of the process. This means that before it actually gets tabled in the House, it's had input and it's not going to be a surprise to the practitioners. If there are any glitches, they can be straightened out.

The Chair: I'd like to ask our other two guests if they find that the department is doing a good job in drafting legislation and consulting with practitioners on a regular basis.

Mr. Gabe Hayos: The joint committee is probably one of the biggest contributors to the whole process. Since the middle of 2003, the joint committee has made over 70 submissions, some of them being hugely complicated submissions. So generally speaking, the answer is yes.

The only criticism we ever have is that sometimes we are not given as much time to respond as we might want, but other than that I would say they have been wonderful.

The Chair: So generally it has been working very well.

Mr. Chapman, do you have anything to add to that?

Mr. Larry F. Chapman: No, I think the process works very well. I think Finance is open to consultation and that's a positive. Finance doesn't always agree with the input they receive, but this is complicated stuff and reasonable people have differing views.

The Chair: I appreciate that very much.

Mr. Hayos, I wanted to move to your recommendations on the expert panel and royal commission. This committee recommended that in our pre-budget report, tabled in December.

Let's go back to your first recommendation about the office of tax simplification, which was established in the U.K. in 2010, I believe, by the chancellor. For the committee's benefit, could you explain how it operates and why this committee should consider it?

Mr. Gabe Hayos: We all talk about simplifying the tax act, but there are so many competing interests that a simplification to one person is taking somebody else's advantage away. You have a huge number of competing issues. I think simplification requires a two-part process. One is to try to see if you can tweak the current system, and another is to see if you can make more systemic changes.

In the U.K., they introduced an office of tax simplification. It is an independent body as opposed to being part of their finance group. They both suggest improvements to the system, and they also receive input from the taxpayers. To date, I think they've made 100 legislative changes. I think it's a wonderful way to tweak the current system. It may have some issues to it, and you may need to take a

longer-term look to see if you can make more fundamental changes to the act.

• (1035)

The Chair: So it's an independent body that provides advice to the chancellor.

Mr. Gabe Hayos: Exactly.

The Chair: Can you describe the make-up of the body and what a similar body would look like here in Canada?

Mr. Gabe Hayos: I don't know all of its members, but the head of it is actually a chartered accountant from the Institute of Chartered Accountants in England and Wales. This person is a former tax practitioner, an experienced person who's able to understand and comment on technical tax legislation.

The Chair: Okay.

Does anyone else want to comment on the establishment of that office?

Mr. Chapman.

Mr. Larry F. Chapman: Gabe and I are not on opposite ends, but I'm a bit more skeptical about how much we can actually simplify the legislation. There's a trade-off between fairness and simplicity, and that happens every day. If you have a taxpayer before you, and you ask that taxpayer if he would rather have fairness or simplicity, if it's fairness for that person, he's going to choose fairness every day. They'll take the complexity every day of the week and twice on Tuesdays.

The Chair: But you can't have fairness and simplicity?

Mr. Larry F. Chapman: You know what? I think we need to strive for greater simplicity. That's absolutely a worthy goal. But in my 30 years' experience in this profession, I've only seen the act grow in complexity.

I think the professions are being a bit disingenuous if they don't take some responsibility for that added complexity. We can't blame it all on the Department of Finance.

Mr. Gabe Hayos: I would just add that I think until the government makes a real commitment and does something towards it, we can talk about it until the cows come home and nothing will happen.

I do believe you can make some changes. I've spent 34 years working with this act, and there are areas that can be improved. But it needs government commitment.

The Chair: I appreciate that input very much.

[Translation]

Mr. Caron, you have the floor.

Mr. Guy Caron: Thank you, Mr. Chairman.

First, we have heard from the government that it would like Bill C-48 to be passed as quickly as possible. This is an approximately 1,000-page long document. Liberals, Conservatives and ourselves all agree that this is not a particularly controversial bill in terms of its content and technical aspects.

However, two things should be kept in mind. First, the content is made up of the recommendations from the Canada Revenue Agency and the Department of Finance, comfort letters and tribunal rulings. In other words, this is an update of provisions that have generally or often already been applied. It is a confirmation of those provisions. This is legislation that brings it all together.

The second point that we are currently discussing is the issue of process. For ten years there were no legislative updates. We feel that this highlights a very specific and serious problem with the way in which technical bills such as this bill dealing with tax amendments are brought forward and tabled.

From our perspective, we could be accused of not properly playing our role as an opposition if we didn't raise this specific issue of how legislative measures are tabled; we must ensure that this is done efficiently for the sake of taxpayers, accountants, and tax practitioners, but also for the sake of parliamentary process.

I think that we should specifically consider process and how these measures are tabled. That is why I feel that it is very unfair and probably inefficient on the part of the government to ask us to hurry up. In the end, we will not have the opportunity to discuss process if we don't do it now. Once the bill is passed, there will not be unlimited opportunities to come back to the issue.

Furthermore, a little earlier the Minister of State told us that the recommendations that had been tabled by various chartered accountants' organizations and by the Canadian Tax Foundation were definitely interesting and he understood them, but they wouldn't necessarily be implemented.

I would like Mr. Chapman and Mr. Hayos to tell us how long this debate has been going on. Did it happen during previous parliaments? Is this more or less the same debate that you have already heard? If so, based on your experience, can you tell us why we are in this situation in 2013, in Parliament, in terms of process and in terms of amendments still being chosen for consideration in a very random way?

• (1040)

[English]

The Chair: Who would like to comment—Mr. Chapman?

Mr. Larry F. Chapman: What I will say is that the last bill was introduced in 2001, so it's been 12 years, right? Before that, the Department of Finance had followed, for a few years, the process of bringing bills forward on a more regular basis. Then this came along.

I'd say there are a lot of reasons why it's taken...and it's not just process. There are a lot of individual reasons why it's taken a long time to get this bill before Parliament. Some parts of this bill, earlier versions of it, were highly controversial in the taxpayer community. With the foreign investment entity rules and the non-resident trust rules, people were concerned about how broadly they applied.

Gabe has talked about the important role of the joint committee in providing input. The joint committee spent a lot of time on it.

To some extent, then, I would say that the community faced with the earlier decision of "Would you have liked to have seen earlier versions of this passed in a different form?" might well have said no. They might have said they'd prefer to see whether the legislation could be improved.

To Finance's credit, they heard all of that. There was a lot of consultation.

I mean, the other part, and you guys know this much better than I do, was that it was a turbulent time in Parliament. This bill was about to be passed, and Parliament was prorogued once and Parliament was dissolved once.

So I think there's joint responsibility around the table. I think our answer to Ms. Nash's question about trying to have more of a timetable is a good way forward. And I encourage you just to study the bill.

The Chair: Mr. Hayos, very quickly.

Mr. Gabe Hayos: There's only one thing I would add, because you've heard a lot about the time delay. I would say that for this committee to do its due diligence, it should be finding out who has made comment on the various technical amendments. That way you'll see it has received good input. That is one step you should take.

Mr. Larry F. Chapman: One thing you can take some comfort from is that the community is really helping you to do your work.

The Chair: Thank you.

There's time for a very brief government round, if members wish.

Mr. Adler.

Mr. Mark Adler: Thank you, Mr. Chair.

Thank you, witnesses, for being here this morning.

Mr. Hayos, how many members are there in the CICA?

Mr. Gabe Hayos: There are 82,000.

Mr. Mark Adler: I would assume that many have expressed frustration over the years that they have to rely on comfort letters. They would rather have had, I would assume, all these amendments codified much earlier than they are now. Is that correct?

Mr. Gabe Hayos: The comfort letters, as we've said, are an important element, but the timeliness is an issue, yes.

Mr. Mark Adler: You're an accountant, right?

Mr. Gabe Hayos: I'm an accountant—a chartered accountant, by the way.

Mr. Mark Adler: Yes, I know.

Mr. Gabe Hayos: Soon to be a chartered professional accountant.

Mr. Mark Adler: If I needed a comfort letter, could you take me through the process? I'm your client.

Mr. Gabe Hayos: Yes. The process would be that I've identified a technical concern. I would call the Department of Finance and say, this doesn't make sense because the rules shouldn't work the way they're working. The Department of Finance considers it and they say, you've identified a problem and it is inconsistent with what the rules say. We then say, why not write us a letter? They will write a detailed letter saying what we have a problem with. The Department of Finance then reflects on that. If they think the legislation is not really working as intended, they'll send you a comfort letter, which is made public to the rest of the tax community, that this is how they think the legislation should work. The Department of Finance will make its best efforts to make a technical amendment.

Mr. Mark Adler: How long would that process take?

Mr. Gabe Hayos: I can't give you a typical timeframe. Are you talking about the discussion and talking?

Mr. Larry F. Chapman: It could happen very quickly. It could happen in days or it could take weeks.

Mr. Mark Adler: Okay.

Thank you.

The Chair: Thank you very much.

Mr. Larry F. Chapman: Mr. Chair, I'd just like to volunteer that at the Canadian Tax Foundation's annual conference in November,

Tim Wach, a former finance official who now works with Gowlings, did a presentation on the technical bill. If the committee members would like to see the presentation, I would be happy to forward it to the secretary and she could distribute it.

• (1045)

The Chair: Please send that to the clerk and we will.

Is that in both official languages?

Mr. Larry F. Chapman: No, it's actually only in one official language.

The Chair: Okay. We'll endeavour to translate that.

Mr. Larry F. Chapman: The other thing we do is a tax policy, which I brought for you, Mr. Chair. I would be happy to distribute it to the other members of the committee.

The Chair: You'll have to autograph that copy for me. Thank you.

Thank you all. I appreciate very much, and the committee appreciates very much, your important contribution to this process.

Members of the subcommittee, we will be meeting in the next room, as there is another committee taking place in this room. We'll be going down the hall in about 15 short minutes.

Thank you all. The meeting is adjourned.

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