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Chair

Mr. David Christopherson

Standing Committee on Public Accounts

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• (1530)

[English]

The Chair (Mr. David Christopherson (Hamilton Centre, NDP)): I now call to order the 43rd meeting of the Standing Committee on Public Accounts.

Colleagues, before we turn our attention to the matters at hand, we have a couple of minor housekeeping matters.

We've had a request from folks from Trinidad and Tobago who are here on a tour. They're here January 7 and 8, when we're not around. I have already given the okay for the usual kinds of things that might happen. One thing they've asked for, because they're doing a documentary and they have a television crew, is permission to use videos and photographs of this committee of stuff we've done in the past, and other pictures that exist.

Going that far, in terms of approval, I thought I'd bring it to you. It seems pretty straightforward to me, but if there are any questions or comments, I'll entertain them.

Hearing none, then, we'll give approval for that.

I've already given an okay for the routine stuff, but for that part we want to make sure we're okay.

Madam Clerk, does that give you what you need?

The Clerk of the Committee (Ms. Angela Crandall): It does. Thank you.

The Chair: Good. Thank you.

Just as a reminder, our first meeting when we come back will be on Monday, January 26. I commit to colleagues that whatever work I put on there for that day, it won't be a hearing. One thing we try to avoid is coming back from a break and then immediately entering into a public hearing. That won't happen. I suspect that we'll have some draft reports and we can do some draft report writing at that time. That's what I'll be looking to schedule.

Last, just as a notice to colleagues, every time a sitting is completed, as you know, we rotate the times of the committees. We will be moving to Mondays and Wednesdays, 3:30 p.m. to 5:30 p.m. That will be our new home through to when we rise for the summer.

There being no other matters before us, I will turn the committee to our public hearing today on chapter 3, "Aggressive Tax Planning", of the spring 2014 report of the Auditor General of Canada.

I believe, Madam Clerk, this is the last chapter in that entire report. This is a Conservative choice. It winds up our work there and

lets us start to schedule hearings on the latest report we've just received.

I will call on our Auditor General to introduce his delegation, and in due course Mr. Ted Gallivan, the deputy assistant commissioner of the Canada Revenue Agency, to introduce his delegation and give his opening remarks when the time is appropriate.

We now will hear from our Auditor General, Mr. Ferguson.

Sir, you now have the floor.

• (1535)

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General of Canada): Mr. Chair, thank you for this opportunity to discuss chapter 3, "Aggressive Tax Planning". Joining me at the table is Vicki Plant, principal, who was responsible for the audit.

Many taxpayers, including individuals, corporations, and trusts, use tax planning to reduce or eliminate the amount of tax owing. Canadian courts have held that, in general, taxpayers have the right to enter into transactions that will minimize their tax liability. However, that right has been restricted in Canada by statutory anti-avoidance rules, including the general anti-avoidance rule, or GAAR. The GAAR may apply to tax plans that are considered aggressive, which the agency defines as arrangements that push the limits of acceptable tax planning.

[Translation]

In its corporate risk profile, the agency has identified aggressive tax planning as one of the highest risks to its mandate of ensuring that taxpayers meet their compliance obligations. Our audit focused on how the Canada Revenue Agency manages the aggressive tax planning program, which identifies emerging tax avoidance issues, arrangements, and products, and handles cases requiring a remedy for tax avoidance. We also examined how the Department of Finance Canada responds to requests for legislative changes to address the aggressive tax planning issues that the agency identifies.

[English]

There are many different ways that a taxpayer can structure an aggressive tax plan. For the purposes of our audit, we selected four examples from the numerous types of plans of which the agency was aware.

[Translation]

We found that the Canada Revenue Agency has an adequate program to detect, correct, and deter non-compliance of certain tax schemes. It has a number of ways to detect aggressive tax plans, such as through risk-based audits, referrals, voluntary disclosures, from informant leads, and from publicly available information, such as on the Internet.

[English]

However, the agency has not fully evaluated whether it is able to detect high-risk large business files. Without this evaluation, it cannot be certain that high-risk cases are in fact being identified and selected for follow-up.

The agency has had success in correcting non-compliance both through reassessments and through requesting changes to tax legislation by the Department of Finance. A taxpayer can appeal a reassessment, and the matter may ultimately be decided by a court decision. Of 54 cases litigated since 1988 on the basis of GAAR, the agency was successful in 28. A lost case is regarded by the agency as a learning experience and clarifies how the courts view a particular aggressive tax plan.

[Translation]

The agency uses three main performance indicators: salary utilization, tax earned by audit, and the quality of file assessments. Tax earned by audit is a useful measure of the short-term result of the agency's compliance efforts, since it is a measure of taxes assessed on a non-compliant taxpayer. However, it is not an adequate measure of long-term success. For example, the deterrent effect of the program may result in fewer taxpayers participating in aggressive tax plans.

The agency has taken steps to develop better measures with the large business sector, and we encourage the agency to expand its approach to the aggressive tax planning program.

[English]

We were not able to determine how specific requests from the Canada Revenue Agency for legislative changes to block aggressive tax plans were analyzed by Department of Finance staff. The department determined that this information constitutes a cabinet confidence outside the scope of the Auditor General's access entitlements under existing orders in council. For that reason, access to the requested information was not granted by the department. Therefore we could not determine whether the Department of Finance had followed its processes in providing timely analysis of requests from the agency.

We were able to see that most of the requests from the agency in the three years under audit were addressed by the 2011 to 2013 federal budgets.

[Translation]

We are pleased to report that the agency agreed with our recommendations and made several commitments in its response. We received a copy of the action plan the agency submitted to the committee and found it consistent with our recommendations.

Mr. Chair, this concludes my opening remarks. We would be pleased to answer any questions the committee may have.

Thank you.

• (1540)

[English]

The Chair: Thank you, Mr. Ferguson.

Before I turn the floor over to you, Mr. Gallivan, I just want to compliment you on the timeliness of your action plan. Action plans are very important to the work we do. Those departments that wait until the last second, or worse yet, don't provide one hear from us about that. I have always felt we should give compliments the other way. Not only did you get it in early enough for us, but you got it in early enough that the Auditor General had a chance to look at it and give his comments. That is very helpful and much appreciated.

With that, I turn the floor over to you, Mr. Gallivan.

Mr. Ted Gallivan (Deputy Assistant Commissioner, Compliance Programs Branch, Canada Revenue Agency): Thank you, Mr. Chair.

This afternoon I am joined by Lisa Anawati, the director general of the international and large business program directorate within the CRA. She has direct responsibility for aggressive tax planning.

We are pleased to have the opportunity to come before committee today to support your consideration of chapter 3 of the OAG 2014 spring report.

[Translation]

Given that my opening remarks are in the binder, I will limit myself to a few key points so that we have more time for questions.

[English]

The focus of my remarks will be on the three recommendations made by the OAG.

At the outset, it's important to note that there are a number of legal ways that taxpayers can reduce the amount of taxes they're required to pay. Claiming allowable tax credits and deductions, sheltering investments inside tax-free savings plans, and offsetting business losses against income are just a few examples. In fact, the government encourages Canadians to take advantage of legitimate tax savings wherever they can.

[Translation]

Aggressive tax avoidance occurs when a person takes part in schemes or transactions that are clearly abusive in nature, where their primary purpose is to avoid the payment of required taxes. While these transactions may comply with the letter of the law, they clearly violate the spirit and intent of the law.

[English]

The Auditor General's report focuses on aggressive tax planning. They looked at four specific abusive planning arrangements selected for the audit and they confirmed that the CRA has delivered positive results in all four cases. While the Auditor General confirmed that the CRA has the tools required to detect, correct, and deter non-compliance of taxpayers using aggressive tax plans, our objective is to further enhance CRA's approach. The Auditor General made three recommendations to help us do exactly that.

[Translation]

The first one was on risk assessment. The OAG recommended that the CRA test the effectiveness of the national risk assessment model (NRAM)—the formal tool that identifies the most high-risk files. The CRA has developed plans to conduct this testing and we are on track to have ongoing testing of the tool during the 2015-2016 fiscal year.

[English]

Second, the OAG made recommendations with regard to training. The OAG recommended that the CRA monitor the training progress of our aggressive tax planning auditors against their learning paths and use this information to identify training gaps. A learning path is a document that sets out the required courses and other training that we expect our auditors to receive. A training framework has already been developed and this full exercise will be completed by March 31.

The third formal recommendation made by the Auditor General touched on performance measures. The Auditor General recommended that the agency re-evaluate its performance measures for its aggressive tax planning program and develop measures and indicators that better reflect program success. There was a focus on an internal measure known as taxed earned by audit, or TEBA. The Auditor General observed that some important results were not being included in TEBA and other desirable outcomes could actually make taxed earned by audit go down.

The CRA has committed to developing a list of relevant performance measures by March 31, 2015. This work is already under way and we have already made an adjustment to our TEBA coding practices so that we can better measure the performance of the aggressive tax planning program. As reflected in the detailed action plan submitted to the committee, the CRA has been active in addressing this chapter and has plans in place to meet all of the commitments made in our management action plan.

In closing, the CRA recognizes the importance of the aggressive tax planning audit program. We have a responsibility to continue to improve this program and we appreciate the recommendations the OAG has made that will help us strengthen it.

Thank you, Mr. Chair. I, too, remain open to questions.

• (1545)

The Chair: Very good. Thank you.

I note that we have two representatives from the Department of Finance: Brian Ernewein, general director, tax policy branch; and Alexandra MacLean, director, tax legislation, tax policy branch.

You've chosen not to have an opening statement. You're here to provide any answers to questions that are put to you. Is that correct?

Mr. Brian Ernewein (General Director, Tax Policy Branch, Department of Finance): That's correct, Mr. Chair.

The Chair: Very good.

Colleagues, unless there is some reason not to, we will now proceed with our questions and answers in the regular rotation.

We'll begin with Mr. Albas. You now have the floor, sir.

Mr. Dan Albas (Okanagan—Coquihalla, CPC): Mr. Chair, I appreciate all the people who are here today and the work that they do for our country.

I'll start with the Auditor General.

Auditor General, you may remember at the May 7, 2014, meeting when you appeared, I did ask you a number of questions in regard to this particular report. I want to go back again to paragraph 3.58. You provided a description of the process used for legislative changes, a template used in budget briefings and information about budget measures announced by the department and some analysis. On that day you did say that they were compliant in giving what they could, or at least what they felt they could that wouldn't compromise cabinet confidentiality.

Is that still your opinion today, sir?

Mr. Michael Ferguson: We asked them for a certain number of documents and for information. They provided us some of the information, as described in paragraph 3.58. There was other information that the department said was cabinet confidence information. Of course, I have no way of verifying that, because obviously we didn't see the information, but certainly I do believe that the department went through its process to determine what it could provide us and determined that some of the information was cabinet confidence.

Mr. Dan Albas: For someone looking at the chart that you've provided, they can directly see the recommendations made that were followed up on, whether legislative or otherwise. Is that correct?

Mr. Michael Ferguson: Sorry; you referred to a chart...?

Mr. Dan Albas: There's a chart attached that actually points out all the documentation, or at least the....

Mr. Michael Ferguson: It's exhibit 3.1, perhaps.

Mr. Dan Albas: The chart basically outlines what was asked for in terms of the list of items, so that you could say this is what was suggested and this is what has been done. You pointed out that there was a direct correlation between those two. Is that correct?

Mr. Michael Ferguson: I think you're referring to exhibit 3.1, just after paragraph 3.10.

Mr. Dan Albas: Yes.

Mr. Michael Ferguson: That identifies the four types of aggressive tax plans we looked at. It indicates what has happened in each of those cases. It's not a chart looking at what we asked for. It's a chart saying that we were looking at these items that CRA had identified as potential issues, and then what happened to them since. It identifies that in three of the cases, there were federal budget measures put in place to try to deal with the issues. In the other case, the courts had ruled that CRA's approach was appropriate, and therefore no further legislation was considered necessary at that point in time.

• (1550)

Mr. Dan Albas: Okay. Thank you very much.

You may remember, Mr. Chair, that in the same public hearing I asked the Auditor General about the fact that CRA had established a training plan for aggressive tax planning for their auditors, and had put in place performance measures to evaluate the aggressive tax planning results. The Auditor General agreed in terms of the training, but said that CRA needed to do a better job of making sure they knew whether or not auditors were following through on the training.

This question is for the CRA. What is your response to the recommendations of the Auditor General in regard to training and following through with auditors? How has that changed?

Ms. Lisa Anawati (Director General, International and Large Business Directorate, Compliance Programs Branch, Canada Revenue Agency): Mr. Chair, at the CRA, we do have a very robust training program, and we acknowledge that we can monitor it. Typically we have individual learning plans and courses that are developed by our headquarters functions. The delivery of the courses is done by our regional offices and the monitoring is done by the regional offices. However, as noted in the Auditor General's report, while that is an effective use of our training resources, better monitoring could actually improve it.

We have already started the process of developing a monitoring framework that will include looking at and comparing the courses that were delivered against the individual auditors' learning plans. It also includes an evaluation of the courses themselves and how they're delivered. In fact we will be taking that recommendation beyond the aggressive tax planning program to the rest of our international and large business courses.

Mr. Dan Albas: That's very reassuring.

What other steps have you taken to ensure that the auditors you have at CRA have the tools, the training, and the feedback systems to protect the integrity of our tax system?

Mr. Ted Gallivan: I think the first thing to lead off with is that while we have documented training paths and we have documented training courses, we've figured out that we have to answer three key questions. First, is the training that's supposed to be offered actually offered? Second, are the auditors actually taking the training? Third, what is the assessment of the result of that training? In other words, is the learning being ingrained in the performance?

The key to all of that is our quality assurance regime. The Auditor General pointed out that we needed to be more detailed in documenting all of this and making a tighter link between our

quality assurance regime, the quality of the audits, and the training. If there was a gap in the quality of the audit work, then we needed to push that back into the training, not just fix the issue with that one file, but fix it across the suite of files we do.

As a final point, aggressive tax planning is a specialty area. The 460 full-time equivalents who work in this area are specialists. They work on this type of file. That level of specialization is another thing we do to make sure that we have the right people working on the right file.

The Chair: Thank you.

Time has expired. We will move along to Mr. Allen.

You now have the floor, sir.

Mr. Malcolm Allen (Welland, NDP): Thank you to the folks for being here.

Mr. Ferguson, in response to a question from my colleague, you talked about documents you didn't receive, and whether they were cabinet documents or some other form the department decided couldn't be released, since you were not sure, you just took their word for it. There doesn't seem to be a process.

From your perspective, is there a way or a process for both parties to be assured? I mean you, not us, by the way. I'm not talking about the opposition but about you, as the Auditor General of Canada, and the department. I wonder if there's a way to assure each other that indeed it should be kept in confidence, and you would simply say, "Well, that's right. You keep that one. We don't look at that one." Is there a way to do that, sir?

Mr. Michael Ferguson: In fact we do have a protocol in place. I don't have all of the specifics of it, but it allows us to communicate directly with the deputy minister and then directly to PCO for them to consider. Again, obviously it is considered inside the government, but there is a process to do that.

As well, discussions are under way with PCO in particular with regard to that protocol to see if there's anything else we can do to strengthen it, but I think that as a basis, the protocol is a good way to approach the issue.

In this case, they did provide us with information to describe the process along with some other bits of information, but fundamentally we felt some of this analysis should exist in documents that were not connected to cabinet confidence documents given the type of analysis it was. I am not questioning whether it was or was not in a cabinet confidence document. What I'm saying is that in future cases some of this type of analysis could be done and documented in a way that is outside the cabinet confidence documents so we would have access to that type of information.

• (1555)

Mr. Malcolm Allen: Thank you. I appreciate that.

Ms. Anawati, the Auditor General talked and you talked briefly about NRAM. I think that is the acronym for the program. Mr. Gallivan may have identified you as the person responsible for the program. I noticed that the Auditor General's report said you were actually looking at the effectiveness of that program. I recognize that through your action plan you are working toward that. Can you give me any sense of where you are with that now? I recognize that some numbers or some dates were thrown around. End dates can mean a number of things. Does that mean a certain percentage are actually going to be trained at that point in time? Are all going to be trained at that point in time? Give me a sense of how that's going.

Mr. Ted Gallivan: First of all, the effectiveness of the risk assessments we're talking about—not the effectiveness overall of the program, because we have some different numbers that speak to that—in terms of the national risk assessment module, which is a new, more systematic way of grading files and deciding who is the riskiest and where that risk is, we spent a number of years implementing that new, more rigorous approach. Right now we are in the process of automating that system so we actually have a new interface that allows the auditors to see those results very graphically to help improve the process.

This fiscal year we're doing a comparison between what our risk indicator told us and the actual audit result. We're going to have that done this fiscal year. It's going to tell us, if we thought this was high, whether we are getting a high audit result. If it said it was in the middle, was it in the middle? We don't look at the low.

Going forward, we're going to actually drill down, because the system has roughly 90 algorithms. The next piece of work, which is going to take a little more time, is drilling down to see which algorithm of the 90 is off, or is leading us astray, to look into the guts of the mechanism.

Mr. Malcolm Allen: You'll probably need a 14-year-old, because they're good at algorithms.

The other piece on training is on page 9 at the top. You mentioned some issues. The Auditor General mentioned some issues that were really about tracking who had what training. He pointed out that it was kind of inaccurate, and I know you said you're now trying to track it better. As well, one specific part of the problem was computer system limitations. Have you solved that issue? Clearly, you can track on paper, but if you're using a computer and it still has limitations, you have a bunch of paper not in the system, and that means somebody has the paper and not necessarily the person who needs to look for it.

Ms. Lisa Anawati: We have actually been putting more energy into that since the Auditor General's report came out. While there are systems limitations, the agency had also been relying on our regional operations, which coordinate the training for us and also are responsible for conducting the audits, to do that monitoring.

Now what we're trying to do is match the two from a regional and headquarters perspective. We have started piloting and are using the system to see how the courses that we are meant to deliver are actually delivered to the aggressive tax planning auditors against their learning plan. In our view, that is a very effective way of using the system. We're hoping to be able to roll it out to more programs after this pilot, which we're doing right now.

• (1600)

The Chair: Very good. Thank you.

The time has expired.

Next in the rotation is Mr. Carmichael.

Vice-Chair, you have the floor, sir.

Mr. John Carmichael (Don Valley West, CPC): Thank you, Mr. Chair.

I welcome our guests today.

Mr. Ferguson, if I could begin with you, sir, I have a specific question. In your conclusion, you state, "We concluded that overall, the Canada Revenue Agency's Aggressive Tax Planning (ATP) program has tools to detect, correct, and deter non-compliance."

Specifically, in the report you talk about the CRA's field auditors and the income tax rulings directorate and how they are able to help when it comes to detecting aggressive tax planning schemes.

Could you elaborate briefly on how both the CRA's field auditors and its income tax rulings directorate are equipped to deter aggressive tax evasion schemes? Could you also provide the committee with examples of how CRA's field auditors and its income tax rulings directorate have been effective in detecting these aggressive tax schemes?

Mr. Michael Ferguson: Mr. Chair, I guess I would suggest that probably CRA can give you much more detail about how these operate, but we did identify that CRA has a number of ways of detecting aggressive tax plans.

Referrals from auditors of the income tax rulings directorate were certainly one of those. We've identified the directorate as a source of business intelligence, particularly because they give advance income tax rulings, which would help them get some insight into the types of tax plans that people are considering. Again, we identified it as one way that seems to be effective for the CRA to gain the knowledge of the types of tax schemes that people are putting in place.

Mr. John Carmichael: All right. Thank you.

To the officials, I opened with the conclusion. For your benefit, I'll state it again: the CRA's "Aggressive Tax Planning (ATP) program has the tools to detect, correct, and deter non-compliance."

Specifically in this report, the Auditor General reviewed the CRA's approach to four types of aggressive tax planning. I wonder if you would be good enough to speak to the four types of tax planning schemes, and hopefully as briefly as possible, that were looked at in the report. Are these aggressive tax planning schemes something which the CRA is used to dealing with? You mentioned the high skills and specialization of the individuals who are dealing with these issues. Perhaps you could address that. Could you also outline some of the successes that CRA is enjoying right now as a result of this monitoring and the work that's being done?

Mr. Ted Gallivan: Mr. Chair, the CRA focus—and I believe it's an interest shared by most taxpayers—is early certainty. We see our income tax rulings and other functions as a kind of early warning area. For areas that are grey, where there's an ambiguous position or a desire for certainty on the part of the taxpayer, there can be a dialogue. We provide that almost from a service perspective.

However, that's also business intelligence. The agency has made using and mining business intelligence a huge priority. When we look at our rulings function, we don't just look at how quickly and how accurately we provide the rulings, but we also say this tells us what's on the mind of taxpayers. This tells us about the positions that may be at risk and about which we should be informing ourselves and understanding the full implications.

In terms of the four specific examples, I think that brings it up to a strategic level, where one of the objectives of the agency is to modify people's behaviour towards compliance. In each of the four cases, either through the legal system or through work in the Department of Finance, we found practices that we felt were non-compliant, and through a combination of interventions and tools, those practices are no longer occurring. From that perspective, we see it as a strategic success.

However, we also generate revenue: “revenue” is in the name of the agency. In this program, from 2006 to today, we've had roughly 8,600 audits yielding \$5.6 billion in additional revenue. When you do the math on that, you're somewhere between \$600,000 and \$700,000 per file. When Canadians see the CRA pursuing some lower-income Canadians, there's often a lot of concern that CRA just picks on Canadians of modest income. In this space, when you crunch the numbers and you look at the number of audits we're doing and the dollar value, you can see that we're well north of \$500,000 per audit on average.

Both from a strategic perspective in terms of curbing behaviour and also from a revenue generation perspective, we do have a track record of results, but as the OAG has pointed out, there are opportunities to improve.

• (1605)

The Chair: Thank you. Time has expired. Sorry, but it goes by quickly.

Monsieur Giguère, you have the floor, sir.

[Translation]

Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP): Thank you, Mr. Chair.

My thanks also go to the witnesses for appearing before the committee.

My first question is about point 3.18, which deals with the challenges of identifying high-risk cases of major corporations.

I called on an outside tax expert, Mr. Léo-Paul Lauzon, the director of the UQAM Laboratoire d'études socio-économiques. His analysis was published under the title *Le réel taux d'imposition de grandes entreprises canadiennes : du mythe à la réalité*. It is based on data from the Canada Revenue Agency for three years, from 2009 to 2011 inclusively.

Before me I have the net tax rate of Canada's 99 largest corporations. I see that TransCanada Corporation has made a profit of \$5.9 billion, but has paid only 1.7% as a real tax rate. Clearly, there has been aggressive tax planning.

Macroeconomic trends in paying taxes are as follows: companies are paying less and less tax while individuals are paying more and more, especially those who cannot afford a tax expert. So there clearly is an abuse. That is quite clear.

Are you able to curb this trend or are we always going to be trailing behind and having to rectify abusive situations as they arise?

Mr. Ted Gallivan: I will start by talking about point 3.18, which deals with the data from the CRA. I think having those data is important in terms of risk assessment.

The agency has over 90 national-level arrangements with other governments. It has 20 other less detailed arrangements with other jurisdictions. The arrangements dealing with exchange of information are very important for the CRA because it receives more information about the source of a transaction. When a Canadian corporation operates abroad, transactions may take place in other countries. When you don't know the rationale and the details of those transactions, you have to address the lack of information, as the OAG indicated in point 3.18. The agency feels that it is able to have more and more information with the ever increasing number of arrangements.

On another note, the CRA has set up an information line for reporting and for cash payments if the agency recovers money. The telephone line has been active since January 1. The agency has received many calls. It has more than 100 actual files with numbers. The agency sees it as one more tool in its tool box.

The Minister of Finance has been very active in that sense. Over the past five or six years, the government has made a number of legislative amendments for the benefit of the CRA.

Finally, let me mention that the CRA will have access to all overseas transactions over \$10,000 after January 2015. It will therefore have more information to be able to target risks more effectively. We are gaining access to more and more tools.

Mr. Alain Giguère: Point 3.37 talks about the penalties for third parties. You are penalizing the external factors, if you will, but you do not mention the internal factors. There is no lifting of the corporate veil that is protecting some administrators and board members. A relatively effective solution would be banning them from boards of directors in Canada if they authorized aggressive tax planning. I do not see any such measures. Freelance tax experts are being punished but the boards of directors are not. The members who gave the authorization are not being held accountable.

•(1610)

Mr. Ted Gullivan: Right now, the CRA is after the promoters. I am talking about those who convince Canadians to make charitable donations and participate in charity schemes. The number of participants has been reduced by 95%.

In court proceedings and criminal investigations, we have been focusing on promoters. Right now, we are keeping a close watch on those promoting aggressive programs and taking advantage of them.

[*English*]

The Chair: I'm sorry, but your time has expired.

Mr. Hayes, you have the floor, sir.

Mr. Bryan Hayes (Sault Ste. Marie, CPC): I want to focus a little bit on tax evasion versus tax avoidance. Specifically, I want to look at the areas studied, which were aggressive tax planning, offshore insurance, RRSPs, stock dividend value shifts, and tech wrecks.

Initially, would they not have been legal, i.e., classified as tax avoidance as opposed to tax evasion? Then, based on the diligence of the Canada Revenue Agency in going to Finance Canada and saying, "Hey, look what we uncovered", Finance Canada made legislative and budgetary changes that made these items illegal. Therefore, they are now classified as tax evasion as opposed to tax avoidance. I want to understand that relationship from your perspective.

Ms. Lisa Anawati: Mr. Chair, I'll start by clarifying our definitions of tax evasion versus tax avoidance, and note that, as mentioned in the Auditor General's report, the Auditor General focused on aggressive tax avoidance and not on evasion.

As far as what we see as tax evasion goes, it's when somebody intentionally under-reports revenue or over-claims expenses. There's often a criminal intent to deceive. In the case of avoidance, however, taxpayers in Canada can legally avoid their taxes in a number of ways. Avoidance is provided for in the legislation. RRSPs are an example. However, when somebody interprets the legislation and goes beyond the intent of that legislation, that's what we call aggressive tax avoidance. The four issues described in the report are examples of what we at the agency see as aggressive tax avoidance.

Mr. Bryan Hayes: That being said, when I looked at the intent of these RRSP strips in particular, I said, "That's tax evasion, plain and simple." In 2011 the federal budget stopped the use of these plans. If the federal budget stopped the use of these plans, yet I'm getting the sense that people are still able to use them, what is the process for eliminating these altogether? It seems to me it's blatant tax evasion if somebody's using the RRSP strips.

Ms. Alexandra MacLean (Director, Tax Legislation, Tax Policy Branch, Department of Finance): I'm from Finance. Maybe I'll take that one.

RRSP strips are a good example of something on the border between evasion and avoidance. Some of the first-generation structures were so aggressive that CRA argued that, under existing rules in fact the tax plan was not effective and just not legal, and that would tip you over to an evasion category. Nevertheless, the planning was quite widespread and promoted. It got more

sophisticated. The more sophisticated versions of the plan exploited weaknesses in some of the rules, and then you were into avoidance.

Budget 2011 introduced new anti-RRSP strip rules, which were clearer and more specific and which carried more serious sanctions. I'd say that now the issue has been addressed. Whether it was a case of evasion or avoidance before, it's now quite clear under the law that the plans are not effective.

•(1615)

Mr. Bryan Hayes: Would that be the same with the stock dividend value shift? Kudos to CRA for uncovering this. I'm a CPA. You have good staff, obviously, to have uncovered some of this stuff. For the stock dividend value shift, the courts ruled to deny the tax benefit. Now that the courts have ruled, if anybody is again using that methodology for tax avoidance, is that now tax evasion?

Mr. Brian Ernewein: Thank you for this follow-up question, because it was a comment I was hoping to jump in on earlier.

I don't think the fact that a transaction is not actually found by the CRA or by the courts to work, if you will, technically, makes it tax evasion. There may be circumstances in which a taxpayer takes a position that the tax payable is such and so because of the transaction they've undertaken and their interpretation of the law. They may file a full report of that in their return of income. The fact that CRA disagrees, challenges it, and wins does not make that tax evasion on the part of the taxpayer. There can be other circumstances in which the taxpayer seeks not only to take a position but also to hide that position, which could move it over to being tax evasion, but just losing to CRA does not make it tax evasion per se.

Mr. Bryan Hayes: Thanks, Mr. Chair.

The Chair: Thank you. Time has expired.

We move over now to Madam Jones.

Ms. Yvonne Jones (Labrador, Lib.): Thank you all for your presence today.

I have a couple of questions with regard to paragraph 3.62. You note it as a "subsequent event": "The federal budget tabled on 11 February 2014 proposed changes to address offshore insurance plans". Has there been any advance made with regard to that? What's the plan to roll out that particular initiative in the next year?

Mr. Brian Ernewein: The answer is yes. It has been advanced. In fact, it was enacted into law last fall as part of the budget measures—

A voice: It was Bill C-43.

Mr. Brian Ernewein: I'm sorry. I'm mixing up my years. It was in 2014. It's in Bill C-43 this year, which has passed in the House of Commons, and is now in the Senate.

Ms. Yvonne Jones: Okay. So this year it will be applied to the 2014 taxation year or 2015....

Mr. Brian Ernewein: I'll ask my colleague Alex to confirm, but I believe it's the taxation year commencing after the date of the budget.

Ms. Alexandra MacLean: I think that's right.

Ms. Yvonne Jones: Okay.

The Chair: Do you want to wait for that answer or do you want to move on?

Ms. Yvonne Jones: No, I'm going to move on.

My other issue is with the conclusion, where you talk about "a need to complete the evaluation of the effectiveness of the Agency's National Risk Assessment Model". We've already had some discussion on it today in terms of measures you've taken to improve that and the training you've done with your staff. I'm wondering if you could outline for us what some of those key measures have been and how you see this being a major improvement on a go-forward basis in the system.

Mr. Ted Gallivan: In terms of training, for the staff that we didn't ask, it was going back and actually documenting that people were taking the training: first, that the training was being offered as it should have been; second, that employees were taking it; and third, based on their actual day-to-day work, whether they absorbed the lessons they needed to absorb.

We've decided that those are the three key questions. We've developed tools to get at those questions. Moving forward in the next fiscal year, we're going to be documenting the answer to all those questions. Based on the answer, we'll be changing our game plan.

In terms of the NRAM and the risk assessment approach, the first step was just to calibrate, in our minds, between high, very high, and extremely high risk and the audit results, and whether they tended to correlate or not. That's going to happen by March 31 this year. Moving forward, we're going to do a more detailed analysis factor by factor to say that this exact subfactor in trying to assess the risk around a corporation is predictive, and that factor isn't. As I mentioned, we have roughly 90 factors or algorithms that we use.

I think this is part of the evolution of the tool. We started with a structured formal questionnaire that people had to answer so that we were systemic across all of our offices. We've now moved to automate that thing. We're now moving to decide whether it works in terms of the direction, and then the final stage for us is determining what are the specific levers and do they work so we can optimize it.

• (1620)

The Chair: You have a minute and a half.

Ms. Yvonne Jones: No, that's good. Thank you.

The Chair: You're fine? Very well. Thank you.

Mr. Falk, you have the floor, sir.

Mr. Ted Falk (Provencher, CPC): Thank you, witnesses, for coming here this afternoon.

I have a few questions for you, Mr. Gallivan. In your opening comments, you state that some transactions "comply with the letter

of the law" but "violate the spirit and intent of the law". I'm wondering whether you could expand a bit on that tension.

Mr. Ted Gallivan: There are some taxpayers who have a financial interest, a legitimate one, in minimizing their tax bill, so they look within the legislation and they have expert advisers to help them, and they adopt a position. That position can be tested with the agency through a rulings process, or they could merely file the return based on that, but they're pushing the envelope.

Some people describe this as the grey space. The agency will look at some of these transactions. The agency position might be that they're offside, so then there's communication back and forth. There's reference to the legislation. This may go through a legislative route. This may go through litigation through the court system.

In some cases—and this goes back to the issue of tax evasion—some of these taxpayers will actually sign a waiver extending the time that the CRA has to finalize its audit. It's very transparent in that sense. The challenge is in deciding where that line is and having an authoritative source establish where the line is. That's why it can take several years. That's why sometimes the Department of Finance will intervene in terms of making the rules of the game clear. To go back to the comments about tax evasion, often these positions are fully disclosed in a very transparent manner.

Mr. Ted Falk: You say that some taxpayers want to minimize their tax. I would submit to you that all taxpayers want to minimize their tax—

Voices: Oh, oh!

Mr. Ted Falk: —even though I myself want to pay more tax, if that makes sense to you.

An hon. member: Just so we're clear.

Mr. Ted Falk: Just so we're clear on that, yes.

Just previous to that paragraph in your presentation, you referred specifically to the government encouraging legitimate tax savings as tax avoidance. What's CRA's role in educating people on legitimate tax savings?

Mr. Ted Gallivan: It starts from the rules and working with the Department of Finance. Even at the outset the Department of Finance will often consult the CRA in terms of the rules. We try to provide early input in terms of ensuring that there's clarity.

The agency has put a lot of effort into its electronic service and web services to help taxpayers take advantage of the credits that are available to them. We've gotten into webinars and almost a "taxTube" type of approach with videos. We've developed a community income tax volunteer program to reach out to some of the more vulnerable Canadians and make sure they're aware of the benefits they're entitled to. There's very much a promotion and marketing type of approach.

We also look at the data to see if Canadians are taking advantage of the credits available to them, to make sure they're aware of them. If we needed to reinforce communication messages, we would. At the agency we have a specific directorate focused on the benefit programs, for example, and they would work very hard.

When the tax-free savings account was launched, and in terms of TFSA's, RRSPs, and other programs, the agency cross-promotes within its website and other guides and forums to make sure that Canadians know they're available and they can take advantage of these programs.

Mr. Ted Falk: Good. Thank you.

In his report, the Auditor General noted that the CRA has successfully employed the general anti-avoidance rule from both a deterrence perspective as well as a learning perspective. Could you explain a little bit more how CRA utilizes GAAR, and in what types of circumstances?

Ms. Lisa Anawati: Mr. Chair, the GAAR, or the general anti-avoidance rule, is a provision that we use when we think the spirit or the intent of the legislation has been taken too far. It's a role we take very seriously. We have what we call a GAAR committee, with representatives from the Department of Finance, the Department of Justice, and the CRA. When an auditor identifies a potential scheme where the GAAR would apply, it's referred to this committee and it goes through a thorough vetting process to ensure that the rules are applied very consistently and methodically.

Once a GAAR is applied, basically the tax benefits the taxpayer was trying to achieve by entering into this particular tax planning arrangement are denied. It's not a penalty, but basically the taxpayer is not able to enter into that tax transaction and get benefits.

•(1625)

The Chair: Thank you. Time has expired.

Moving along, we'll now go to Monsieur Giguère.

[Translation]

Mr. Alain Giguère: Thank you, Mr. Chair.

Let us finish the question of penalizing third parties. Basically, those proposing the system are being punished, but I would like to see those who authorize aggressive tax avoidance penalized as well.

In the U.S. and in some European countries, ever since the Enron scandal, board members must solemnly declare in writing that they will not use such practices. A board member who nonetheless authorizes his company to use such practices is harshly sanctioned in terms of his assets. He could even be sentenced to prison.

Why is Canada not taking that approach, which is more and more common in many countries?

Mr. Ted Gallivan: The Canada Revenue Agency deals with boards of directors through its programs for big international companies. One of the very important aspects of our risk management program has to do with providing feedback to the boards of large corporations. When the risk level of a company is determined, especially if it is a high risk, we officially meet with its board of directors or its representatives and explain the situation.

I think we all agree that the board of directors has a certain responsibility. Right now, providing feedback is a tool we use. Some corporations are supportive. In fact, they disclose the feedback from the agency in their financial statements.

Mr. Alain Giguère: I am not interested in those who pay their taxes. I like it when people pay their taxes, but the issue is with those who do not pay them.

Clearly, the study in front of me is describing an appalling situation. Just in the financial sector, between 2009 and 2011, Canada's 11 main financial institutions have more or less ripped off Canada by \$9 billion. That is huge. If I had \$9 billion, I can guarantee you that social housing and hospital wait-time problems would be solved. So there is a problem.

You talk to individuals and some of them can change their behaviours, I agree. However, others will not change. Will your legislation provide for a penalty for those people?

[English]

Mr. Brian Ernewein: I hope it's all right if I respond in English. There is some detail that I would like to add that I wouldn't provide very well in French, I'm afraid.

First of all, to the point that there are large corporations that are evading taxes, I think that's, let me say, unlikely to be the case. I think large corporations pay particular attention and retain some very expensive advice to try to make sure they are operating within the terms of the law. Sometimes they are able to come up with plans that push the law to the limit. I think that is right. They do that on the basis of pretty good legal advice. Sometimes they're wrong, but I don't think that makes it evasion. That's point one.

Point two is that I think the examination of just a percentage of tax paid fails to capture, in many cases, the reasons there are lower taxes. There could be loss carry-forwards, foreign income that's not subject to tax, or inter-corporate dividends. Sometimes there are incentives in our own system that corporations as well as taxpayers can avail themselves of. I think it is important to be mindful of that as well.

Another point I will make on large corporations, particularly on cross-border or international income, is that the OECD, and we as part of the OECD, are concerned about some of the transactions and structures that are being undertaken to minimize tax. The so-called BEPS exercise, the base erosion and profit shifting undertaken by multinational corporations, is something that the OECD has been working on. It has been the subject of G-20 commentary and support, and indeed there are G-20 countries participating with the OECD to try to develop proposals to constrain base erosion and profit shifting, the sort of tax minimization that happens internationally.

The final point I would make is about the third party penalty rule that the honourable member has identified. I think you should be happy with this rule. We have criminal rules, that is, criminal sanctions for those who evade taxes. We also have criminal rules for those who aid and abet in the evasion of taxes. We had, up until 15 years ago, a civil penalty that applied only to the taxpayer for misrepresentation or other tax non-reporting that was judged not to meet the threshold of tax evasion, but we did not have a civil penalty that applied to the person helping that person avoid taxes. These third party penalty rules that are discussed in the Auditor General's report, the applicability of which is judged by a Canada Revenue Agency committee, are the answer to that. I will note that these are actually under challenge right now in the court, but in terms of the honourable member's question, just based on his stated view, he should be supportive of these because they do help ensure that taxes are paid and that people don't facilitate others avoiding taxes.

Thank you.

• (1630)

The Chair: *Merci beaucoup.* Time has expired.

Now we'll go back to Vice-Chair Carmichael.

You have the floor, sir.

Mr. John Carmichael: Thank you, Mr. Chair.

Thank you for that comment, Mr. Ernewein. I want to just add onto it, because I think this is a very good discussion.

My colleague has spoken to boards of directors dating back to the Enron scandal with regard to some of the difficulties that were held by corporations in the U.S. early on. We saw a lot of press around that, but out of that has come great education. Organizations like the Institute of Corporate Directors, originally out of U of T, spread across the country and now are educating those who want to participate on a board of directors as to what their obligations are. If you're going to participate on a board today, you'd better know what the rules are and what your obligations are so that the company is operating at a standard that's not going to put you or any of your colleagues into an area that is going to have you under review.

I also think that type of education has taken us away from the days of "the rubber stamp environment". When we saw in the newspapers and the media what came of those early scandals, it was disheartening to everybody out there and certainly to those who might be in the investment world to see the type of mismanagement that was going on within those organizations. Today we're in a better place because of some of that. You talked about some of the learning at CRA and in some of the organizations. I think that is a positive solution.

Mr. Gallivan, in your opening comments you talked about TEBA, and some of the benefits of TEBA. I wonder if you could expand on that and talk to us a little bit about how you measure that, how that works, and whether CRA uses TEBA to leverage and improve upon audit activities that it conducts.

Mr. Ted Gallivan: What the CRA is trying to assess is the direct tax assessment, the actual audit result, in the here and now, so the entry that we would post to the taxpayer account.

Certainly with businesses it's a little more complex than that, though. They have loss carry-forwards and other pools that are multi-year in nature. The tax earned by audit tries to abstract the predicted value of that to give us a sense of the economic impact of that audit. We use that number to tell us whether our audits are being efficient. It is a fairly good efficiency indicator, but we also try to complement it with effectiveness indicators.

We talked about practices that have disappeared. Earlier in my remarks I talked about the gifting tax shelter. Gifting tax shelters were a phenomenon in Canada, with a large number of participants. A lot of parties and stakeholders put a lot of effort in. Basically the practice has wound down. We now have 95% fewer participants. We went from roughly 50,000 participants to 2,500 participants in those gifting tax shelters. That reduction in the participation would be, to us, more of an effectiveness indicator.

Our TEBA results have been trending upwards, up into the \$10-billion range per year. As an organization that tells us we're being more efficient. But we're also working hard to develop other indicators, because at some point we'd like TEBA to go down. That would tell us that we're being strategically successful.

We have recently implemented something called the liaison officer initiative. We took 120 auditors and said, "Look, we don't want you to do audits anymore. We want you to go out to businesses and talk to them about common mistakes and errors. Schedule appointments with taxpayers and help them to get it right from the start."

We've done some control groups, and we will do statistical sampling. We'll follow the people we visited in the control groups and we'll make sure there was a tax lift from those visits. We'll assess that. We'll do the math.

It is that kind of measurement we are trying to do at a strategic level. We're very happy, at an efficiency and tactical level, when TEBA goes up. In aggressive tax planning, for example, we went from \$1.2 billion in fiscal year 2012-13 to \$1.7 billion in fiscal year 2013-14. It went up by \$0.5 billion. That's an operational success. But strategically, five or six years from now, I'd like to be before this committee telling you that it's actually gone down because we've stamped out the practices.

• (1635)

Mr. John Carmichael: Excellent.

Do I have time left?

The Chair: You have a couple of seconds.

Mr. John Carmichael: Okay. Thank you.

The Chair: Moving along, then, we'll go back to Mr. Hayes.

You have the floor, sir.

Mr. Bryan Hayes: Thank you very much. I really appreciate that, Mr. Chair.

The Chair: You're welcome, Mr. Hayes.

Mr. Bryan Hayes: I didn't think it was my turn so quickly. We'll just jump all over that.

Auditor General Mr. Ferguson, I want to talk about paragraph 3.32. You mentioned that you looked at how the agency informed its ATP staff about the four selected aggressive tax plans described in the chapter. Could you comment on how the agency informs the staff and what your findings were?

Mr. Michael Ferguson: In paragraph 3.32 we do talk about how they inform their staff. We found that they had communicated to the ATP auditors through technical news bulletins, information sessions, or webinars to make them aware of the nature of the plans and how they could be identified.

We said that we found that the agency adequately communicated to their auditors the information related to the four selected aggressive tax plans. They're using a variety of different ways to make sure their auditors are aware of the types of tax plans that are happening.

Mr. Bryan Hayes: That's a good segue into my next question.

Mr. Gallivan, I want you to talk about some of the ongoing emerging issues surrounding tax avoidance. This report studied four issues. I expect that you guys probably have sunk your teeth into another issue at this stage of the game. I want to understand really what the department is doing to identify new and emerging issues. What is the process to develop an aggressive tax plan surrounding a new issue?

With regard to Mr. Ferguson, he is pleased with the way you would communicate that, so as step three of the question, I would want you to tell the committee how you would go about communicating that said plan to your staff.

Ms. Lisa Anawati: I'll answer that question, Mr. Chair.

In terms of the first part of the question on what we're working on and how we're finding new schemes, we have what we call centres of expertise for aggressive tax planning. That's where we have auditors who are very well trained and experienced in identifying potential schemes.

We have aggressive tax planning auditors across the country, and various tax services offices as well. They are an excellent referral to our centre of expertise. The centre of expertise does data mining of our tax returns and the forms that are available to us. Whether it's information forms relating to assets or income from other countries or from domestic measures, this group will analyze various forms of business intelligence. They'll get referrals from our tax rulings department.

Once they identify a potential scheme, we may go about creating a pilot whereby we will select a certain part of our taxpayer base and conduct some test audits to see whether those schemes are indeed considered aggressive tax planning. If there is aggressive tax planning, at that point they may go to the GAAR committee. We will at that point often advise the Department of Finance of our findings in order to identify a potential tax loophole. Sometimes the case is litigated through the courts, etc. That's the process we use to identify.

In terms of communicating, as soon as we do identify, we do pilots, as I've said, but in other cases where we have more certainty, we have what's called a "Wiki", which is an electronic means of communicating with our auditors in real time. Our auditors have access to real-time updates on what we're finding with regard to potential schemes. We receive information from our treaty partners, and we are part of JITSIC, the Joint International Tax Shelter Information Centre, where we also exchange specific tax avoidance information. As soon as information is identified, it's communicated.

We have regular round tables with our tax auditors across the country as well.

• (1640)

The Chair: Thank you.

The time has expired. We're right on the button.

We'll go back to you, Monsieur Giguère. You have the floor.

[*Translation*]

Mr. Alain Giguère: Thank you very much, Mr. Chair.

The International Consortium of Investigative Journalists (ICIJ) has drawn our attention to one of Bombardier's tax practices. Bombardier received assistance from the accounting firm Ernst & Young. The practice has to do with turning profits of \$500 million into a special dividend through a complex transaction.

[*English*]

Mr. Dan Albas: I have a point of order, Mr. Chair.

On the point of relevance, we're here to discuss the Auditor General's review of the aggressive tax planning regime that is operated by the CRA. With regard to bringing in other companies that are beyond the scope of this particular report, I don't think this is the proper venue for these kinds of discussions, Mr. Chair.

The Chair: I hear you and I'll take it under advisement.

I would ask Monsieur Giguère to keep that in mind. I'll give him the benefit of the doubt and—

Mr. Alain Giguère: [*Inaudible—Editor*]

The Chair: Hang on. I'm not done, and then it will be your turn. Okay? That's how we do this, especially since I'm ruling in your favour.

I'm going to listen to what Mr. Albas has said and keep it in mind, and I ask you to do that also, but I'm going to hear the conclusion of your question to see how close it is to the actual matters before us.

That said, you now have the floor again.

[*Translation*]

Mr. Alain Giguère: Thank you, Mr. Chair.

At the moment, we are talking about prohibited tax practices and about transferring share value through dividends. That is basically what we are discussing at the moment.

In my opinion, there is a problem with a transaction like this because the justification that the representatives from Luxembourg and from Bombardier came up with is that these fiscal tactics are approved by the federal government.

In one of the tables we were shown, this tax avoidance and aggressive tax planning are expressly prohibited. However, at the moment, we have a clear case of this technique right before our eyes. People are defending it on the pretext that companies see it as a way to handle international competition that is supported and approved by the federal government.

Can anyone explain to me how we can prohibit something and, at the same time, allow it because of the fact that this company is facing international competition?

Mr. Ted Gallivan: Mr. Chair, it would be completely inappropriate to comment on a specific taxpayer. I can tell the committee, however, that the agency uses all the information put at its disposal by virtue of its arrangements with other governments, and because of information that is publicly available.

• (1645)

[English]

The Chair: I want to stay clear here. I accepted no comment on individual cases. Had that continued down that vein, I would have ruled it out of order, but as it pertains to policy, then I think that's fair game.

I'll go back to Monsieur Giguère, and if he does talk about the policy, then I would direct that you need to respond to a question of policy, but I do support your sense that we're not going to talk about individuals here at all.

With that, Monsieur Giguère, you have the floor again.

[Translation]

Mr. Alain Giguère: I can even make the case that the American government had to confront these kinds of problems in the UBS cases, the Union des banques suisses and the Société de banque Suisse, where the same system was being used. The American policy was to sanction those two banks severely, to the point of threatening to block their access to American soil.

Could you tell me which way you are going internationally in order to prevent the kind of abuse that you prohibit in Canada?

[English]

The Chair: Go ahead, please, if you would.

Mr. Brian Ernewein: Thank you, Chair.

I have two comments. First, again trying to stay clear of any discussion of any particular taxpayer's circumstances, I think there is a world of difference between the type of situation that the honourable member raised abstractly in his initial question, and the UBS example he identified near the end. One, as far as we were given to understand, was a matter of clear evasion and it was treated as such. The other was a situation of, or seems to contemplate, an examination of Canadian tax rules in respect of dividends being paid back to Canada from foreign companies operating in countries with which Canada has a tax treaty.

Parliament enacted rules to exempt dividends from active business income from Canadian tax when paid by a foreign subsidiary of a Canadian multinational, and if the question is whether that was the right decision or not, it's a question to return to Parliament. That question is very separate from the challenge of

taxpayers who seek to evade taxes in cases such as what we understand the UBS-type case to be.

The Chair: Okay. That's fair game.

Monsieur Giguère, you still have 20 seconds if you can be really quick.

[Translation]

Mr. Alain Giguère: An international cooperation and development organization has indicated that one of the problems with aggressive tax planning has to do with the tax agreements between countries that are designed as a way to avoid double taxation. I am not just talking about those four, but about the entire picture that tax planners are updating daily.

There are some countries with which we cannot conduct transactions, like Iran or Cuba. So why are we making financial agreements with tax havens whose sole activity is tax avoidance?

[English]

The Chair: Go ahead briefly, please.

Mr. Brian Ernewein: Very briefly, I'll make two points again. It seems I always have two points. One is that there is a concern with the terms of the tax burden borne through international transactions, and the OECD, of which Canada is a part, is trying to see if something can be done to minimize tax minimization through cross-border transactions.

Actually, I'll leave it at that.

Thank you.

The Chair: Fair enough. Thank you.

We will move along to our last speaking spot.

Mr. Falk, you have the floor, sir.

Mr. Ted Falk: I think you guys work in an exciting environment. You must actually admire some of the creativity and ingenuity you see in people who are trying to avoid tax.

In the tech industry, they hire hackers to teach them. One of the recommendations in the Auditor General's report involved the gap in the learning path and also the education of some tax auditors. Do you ever retain the services of the people who are so creative in devising some of these schemes to educate you?

Mr. Ted Gallivan: There are at least two ways in which the CRA gets that kind of insight. The first is our offshore tax informant program line. The people who are contacting us through that line are insiders. They are people who have direct access to offshore transactions and non-compliance; they kind of have a front row seat. When we approach that, we don't just try to deal with that one taxpayer on a transactional basis. We try to mine that scenario.

The second source is our voluntary disclosure program. When taxpayers come forward for whatever reason and make a voluntary disclosure to correct their tax affairs, again we don't handle that transactionally. We also try to mine that as a scenario and push that back through the rest of the taxpayer database.

I won't make any comments about hiring people, mid-career professionals, from other organizations, and I won't talk about our attendance at various seminars and other events where these matters are discussed, because I don't want to give offence to anybody. But we do have an active business intelligence function as well while we're out in the community of practitioners.

• (1650)

Mr. Ted Falk: I guess the important thing from the audit perspective is that you document it.

Our government, in the last couple of budgets, has tried to address some of the loopholes in aggressive tax avoidance practices and schemes that people have developed. Can you talk a little bit about some of the measures in the last few budgets that have given you the tools you need to collect the taxes that are due?

Mr. Ted Gallivan: I don't want to belabour the offshore compliance directorate, a directorate that is distinct from Lisa's, but that organization has 70 people in it. The \$30 million over five years that we have invested, I believe, has given us really effective measures.

The government has also made changes to the T1135. That has increased the burden on taxpayers and practitioners. The T1135 is the reporting of foreign-held assets. We believe that kind of extra insight helps us target which taxpayers we need to look at and also tells us which taxpayers we don't need to disturb with an audit.

Those are a couple that I would mention specifically.

Mr. Ted Falk: Okay.

I'm good, sir, unless I can share my time.

The Chair: You may.

Mr. Carmichael, by all means.

Mr. John Carmichael: Thank you, Mr. Chair.

Just as a follow-up, Mr. Gallivan, you mentioned the voluntary disclosure program. Media reports were suggesting that since 2006 we've seen good growth in that area, with taxpayers coming forward with disclosure of errors or whatever. I wonder if you could comment on that program and some of the benefits we are seeing from the voluntary disclosure program today.

Mr. Ted Gallivan: The overall disclosures are up 80%, a fairly significant increase in both numbers and dollars. They're not small-dollar cases. We also broke out the international transactions, the international element. That is up 400%. Again, that's in terms of both number and volume. Just on the international front, in the last seven years roughly \$2 billion in additional income has been reported just through that program. As I alluded to earlier, we take those scenarios and we push them through the data we have to identify other taxpayers involved.

The other benefit is that these taxpayers are normalizing their tax affairs, minimizing the amount of penalties and interest they have to pay, and we can only expect future compliance from those taxpayers. It's not just the dollar value. I think those are businesses that are probably correcting their affairs, and that's probably healthy for them from an economic perspective as well.

Mr. John Carmichael: To your point about the voluntary disclosure program, we've talked about tax avoidance and tax evasion. We've talked about the aggressive side of this world. On the voluntary disclosure program, you have regular taxpayers, for lack of a better term, coming forward, paying their taxes, paying their past interest, and doing what they have to do to ensure that they're on a level playing field with CRA and doing what's right. Is that correct?

Mr. Ted Gallivan: It is, and in fact we've seized the opportunity to promote it. Whenever we have a chance to communicate that message, we try to get the message out. We also point to the January introduction of FINTRAC data and kind of put that message together to encourage people to come forward with VDP, because eligibility for the program ceases once we do begin an audit.

The Chair: Thank you.

I have one quick question that I want to ask. It's not a controversial one; I'm just curious. I assume that this is the case, and I'd just like to know if it isn't. The Auditor General personally has to file income tax like everybody else, as does the Prime Minister, as does the Governor General. I assume that their files are handled in exactly the same way as anyone else's. Or, because of reasons, are their files dealt with on a different path and go to different people?

Perhaps you could answer that for me.

• (1655)

Mr. Ted Gallivan: I can confirm that they are handled in exactly the same manner.

The Chair: That's what I wanted to hear. I was hoping to hear that. That's very good.

With that, on behalf of the committee, I will thank you for being here. We appreciate it. We've had very good discussions and very good, clear answers.

Thank you very much to the government side.

Auditor General, as always, we appreciate everything you do.

I wish all of you who are here, our staff and everybody else a merry Christmas, a happy Hanukkah, happy holidays or whatever warms your spirit. I wish all of you a very safe time. We look forward to seeing you back here again and to having more fun in the new year.

To my colleagues, it's the same message, and here is the best thing you could hear from me right now: the meeting is adjourned.

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