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Chair

Mr. James Rajotte

Standing Committee on Finance

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•(1535)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call to order meeting number 56 of the Standing Committee on Finance.

The orders of the day are pursuant to the order of reference of Monday, November 3, 2014, Bill C-43, a second act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

I want to welcome our officials who are both here to help us go through this bill.

Colleagues, we'll go through the bill part by part. We'll have all the officials for part 1, part 2, part 3, and then for part 4, we will go by the various divisions.

We have before us here, as I understand it, officials who are all from the Department of Finance to deal with part 1 of Bill C-43. Is that correct?

I'm suggesting we follow the order of questioning that we have normally, and we will do five-minute rounds.

[Translation]

Mr. Caron, we will start with you. You have five minutes.

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

I have a number of questions, but most of them require brief answers. Things should go well. At least I hope so.

I would first like to talk about the series of amendments on intergenerational rollover and the capital gains exemption for farming and fishing properties.

My first question is about the clauses related to the capital gains exemption. My understanding is that the exemption threshold does not change. It will just be applied to eligible farming and fishing assets. Is that correct?

Ms. Alexandra MacLean (Director, Tax Legislation, Tax Policy Branch, Department of Finance): I am sorry, but I did not quite understand your question.

[English]

I didn't, in fact, hear either of them very well. The question related to the farming and fishing measure. I caught that much.

Thank you. My colleague has clarified the questions somewhat.

The farming and fishing measure applies in quite narrow circumstances. There was an existing exemption for farming businesses and another for fishing businesses. Both of those measures applied if the taxpayer was primarily involved in the farming activity or the fishing activity. This measure would only apply in cases where the taxpayer couldn't meet either of those tests.

For example, if the taxpayer was 40% in farming and 35% or 40% in fishing, he or she would not meet either of the conditions. With this rule, that narrow set of circumstances is now accommodated.

[Translation]

Mr. Guy Caron: So it applies to a small segment of the population if they have a mix of eligible assets.

[English]

Ms. Alexandra MacLean: Yes, it affects a very small number of taxpayers.

[Translation]

Mr. Guy Caron: Are the qualified farming and fishing assets part of the capital gains exemption threshold or do they have to be sold separately with the same tax advantage?

Ms. Alexandra MacLean: Once again, I did not quite understand what you said.

[English]

Yes, the properties could be sold separately. Yes, you're correct.

[Translation]

Mr. Guy Caron: Thank you very much.

As for the rollover rules, we are not really amending the list of people with whom farmers can do business if they want to divest their gains and farming assets. We are talking about the children, grandchildren and any children over 19 for whom the person is legally responsible. Is that correct?

[English]

Ms. Alexandra MacLean: The measure for farming and fishing businesses applies in relation to two existing tax measures: the lifetime capital gains exemption and the rollover for children and grandchildren. Those are the main applications for the measure.

[Translation]

Mr. Guy Caron: Thank you.

I will now focus on the definition of "split income" in the amendments.

Could you give the members of the committee some tangible examples of split income transactions with minor-aged children, which you are trying to eliminate with this amendment?

Ms. Alexandra MacLean: Once again, I apologize. I didn't quite understand your question.

[*English*]

This is in relation to the income tax on split income, the existing rules of long standing. The measured target situations are where the parent is earning income from a partnership or trust—it could be another adult, but typically it's the parent—and the child is reporting the income for tax purposes from that partnership or trust.

[*Translation*]

Mr. Guy Caron: Do you have an estimate for the loss of tax revenue related to this measure?

[*English*]

Ms. Alexandra MacLean: I'm not sure that we have the number of affected individuals. We do have the revenue figure. It's a revenue gain of approximately \$35 million per year.

[*Translation*]

Mr. Guy Caron: Thank you.

I would like to ask a question about trusts and estates.

Why has the highest tax rate of 29% been chosen? Have discussions been held on the possibility of setting a graduated rate based on the amount in trust?

[*English*]

Ms. Alexandra MacLean: The application of the top rate for trust is a long-standing measure since 1972. The presumption behind that rate choice, as I understand it, is that typically trusts are used by sophisticated, higher net-worth taxpayers who would, if they earned the income directly, likely be paying that top tax rate. Deviating from that is the concession in the testamentary context.

• (1540)

The Chair: We'll come back, Mr. Caron.

We'll go now to Mr. Saxton, please.

Mr. Andrew Saxton (North Vancouver, CPC): Thanks to the departmental officials for being here today.

My first questions arise from part 4, division 22. In economic action plan 2014—

The Chair: We're doing part 1.

Mr. Andrew Saxton: Oh, sorry. I jumped way ahead of the game.

I'm going to allow my colleague, Mr. Keddy, to ask questions because it's his area of interest.

The Chair: Mr. Keddy.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): I want to talk about tax loopholes.

We as the government have closed over 85 tax loopholes, which has certainly enhanced the integrity of our taxation system, and we're looking to close down even more.

I have a couple of questions. The captive insurance changes in the bill adjust Canada's foreign accrual property income rules in order to address offshore insurance swap transactions and ensure that income from the direct or indirect insurance of Canadian risk is taxed appropriately.

Can you comment on these changes and what is the expected fiscal impact? I know that's a little hard to predict, but what's the expected impact of that?

Ms. Alexandra MacLean: Budget 2014 projects the fiscal impact for the captive insurance measure to be approximately \$250 million per year for a total of \$1.015 billion per year over the planning horizon.

If you'd like, I could describe the type of transactions targeted.

Mr. Gerald Keddy: Please do that.

Is that a five-year projection?

Ms. Alexandra MacLean: Yes, from 2015-16 to 2018-19 is the projection.

Briefly the existing tax policy under the Income Tax Act is to tax Canadian corporations on income earned in offshore jurisdictions where that income comes from property: passive sources. An existing tax rule treated income from the insurance of Canadian risks as part of this foreign accrual property income regime, even if the income from Canadian risks appears to be earned in a controlled foreign affiliate, that is, an offshore subsidiary of a corporation. The transaction targeted by the measure involved controlled foreign affiliates, so offshore subsidiaries of Canadian taxpayers swapping portfolios of Canadian insurance for foreign insurance so that the Canadian insurance income appeared to be earned by a non-resident and to escape Canadian taxation. This measure addresses that transaction.

Mr. Gerald Keddy: Thank you for that.

This is the strengthening of our foreign tax rules. The other part of that would be our back-to-back loan arrangements. We've added a specific anti-avoidance rule in respect of withholding tax on interest payments and by amending the existing anti-avoidance provision in the thin capitalization rules.

How many Canadians would participate in these foreign affiliate rules? Do you think this move makes it easier to collect that? What is the expected fiscal impact of that?

Ms. Alexandra MacLean: Back-to-back loan transactions are undertaken almost exclusively in the corporate context. We're talking about a relatively small number of taxpayers in the corporate sphere, typically taxpayers with...multinational, enterprise-type taxpayers. There is not a revenue estimate prepared for the budget for the back-to-back loan measure. We would describe it as protecting the tax base or the revenue base. It can be difficult to estimate that overall target.

Mr. Gerald Keddy: We signed 92 tax treaties, 21 tax information exchange agreements. The measure in the budget that affects that is the definition of a non-qualifying country in the foreign affiliate rules.

Do you think this move makes it easier for Canada to negotiate tax treaties and foreign exchange agreements?

• (1545)

Ms. Alexandra MacLean: It should certainly make it easier for Canada and the Canada Revenue Agency in particular to obtain relevant tax information from foreign countries, so this measure is a small aspect of that policy.

Mr. Gerald Keddy: Thank you.

The Chair: Thank you, Mr. Keddy.

We'll go to Mr. Brison, please.

Hon. Scott Brison (Kings—Hants, Lib.): I have a question on the off-shore insurance swap transactions.

Budget 2014 said that this measure will increase federal revenues by more than \$1 billion between 2015 and 2018. During the briefing for parliamentarians, I had asked officials how much federal revenue connected with these insurance swaps had been identified by the government but was being disputed currently prior to this measure being introduced.

Are you able to provide me with that information?

Ms. Alexandra MacLean: I apologize. I do not have that information today, but I will follow up with Canada Revenue Agency officials.

Hon. Scott Brison: That would be helpful, because we're not given a lot of time to deal with these things and it would be helpful to know that.

I have a question on the tax credit for interest paid on student loans.

Bill C-31, the last budget bill, introduced the apprentice loans. Why didn't Bill C-31 also include this tax credit for interest paid on apprentice loans?

Ms. Alexandra MacLean: Are you asking why this measure was not included in the first budget implementation act?

Hon. Scott Brison: Well, Bill C-31 introduced the apprentice loans and we're wondering why it didn't also include this tax credit for interest on apprentice loans. Why wouldn't it have been done?

Mr. Miodrag Jovanovic (Director, Personal Income Tax, Tax Policy Branch, Department of Finance): At the time when this was introduced, legislation and regulations about the Canada apprentice loan were not out. We wanted to wait to make sure that it was similar to Canada student loans to offer the same treatment.

Hon. Scott Brison: On international shipping corporations, what is the rationale for adding cable-laying to the list of shipping activities excluded from the definition of "international shipping"? Is there some concern that this change will negatively impact or could negatively impact Canadian jobs?

Mr. Trevor McGowan (Senior Chief, International Inbound Investments, Department of Finance): The question we were looking at in setting the limits of the definition was what ought to appropriately be considered shipping, which in very general terms was considered to be taking persons or property from point A to point B. It excludes things like laying cable, which is doing work at sea, rather than transporting a cable from one point to another internationally.

In that case, that's why that was excluded. In doing so, we also looked at exclusions contained in the legislation of other countries to inform our policy.

Hon. Scott Brison: Is this consistent with protocol in terms of how other countries treat this?

Mr. Trevor McGowan: I believe so. I know that other countries' rules were consulted in coming up with the list, as well as the current administrative practice of the Canada Revenue Agency.

As to that specific one, I would have to go through our notes. But the general policy is, as I stated before, that it was considered to be doing work at sea, which is to say installing or laying the cable at sea, rather than transporting a good from one point to another.

The Chair: Can you get a specific response back to us on that?

Mr. Trevor McGowan: Sure.

The Chair: Thank you.

You have another minute, Mr. Brison.

Hon. Scott Brison: I have a question on the measures in the Canadian film or video production tax credit. How do these measures differ from those in Bill C-10 and Bill C-33?

Ms. Alexandra MacLean: The only significant difference is that the public policy test that generated quite a lot of controversy and commentary at the time of Bill C-10 is not part of these measures.

Hon. Scott Brison: Just to confirm, is there any way that these measures in Bill C-43 could be used by the Minister of Canadian Heritage to deny a tax credit for a film that the government deems offensive?

Ms. Alexandra MacLean: No, that's not part of these measures,

• (1550)

Hon. Scott Brison: Thank you.

The Chair: You have 30 seconds, if you want to use them.

Hon. Scott Brison: No, that's it.

The Chair: Thanks, Mr. Brison.

We'll go to Mr. Allen, please.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Mr. Chair, I have a few questions, one on the technical amendments package, which is in part 1.

The comments say that these are mostly relieving in nature, but can you confirm with me that these are a follow-through on draft technical amendments that were released for comment over the summer period? Have they been released for comment by the public?

Ms. Alexandra MacLean: Yes, the technical measures in the bill have all been released for comment previously. The largest component of them was released on July 12, 2013, as a consultation package.

Mr. Mike Allen: Okay.

Some of this relates to comfort letters that were being given by CRA. Can you inform the committee how long some of these things have been managed by CRA?

Ms. Alexandra MacLean: It is for several years, certainly, and in a few cases as long as 10 years.

Mr. Mike Allen: Okay. Thank you very much for that. That's helpful and helpful for businesses as well.

I'd like to ask you a couple of questions on the exchange of information for tax purposes, which in the briefing binder is item E in part I (Other). Can you elaborate a little on that exchange for tax information purposes? Specifically, how often is the tax information shared, and how do you perceive this exchange as helping us with tax evasion measures?

Ms. Alexandra MacLean: In 2007 the government announced a policy of seeking to enter into tax information exchange agreements particularly with countries that Canada did not have a tax treaty with, typically low-tax or no-tax jurisdictions. Part of that policy included incentives to enter into such an exchange agreement as well as disincentives for countries that refused to act on an invitation to enter into such an agreement. The measure in the bill addresses a timing gap.

British Virgin Islands in particular took all necessary steps to enter into a tax information exchange agreement but through no fault of its own missed the deadline to avoid the disincentive tax measure.

The policy of entering into these tax information exchange agreements is relatively recent. There are 21 or so in place now. I understand that CRA is beginning to receive information under them, but it is fairly new. Officials, I think, believe that the fact of the information sharing in itself helps to discourage tax evasion, because taxpayers know that the information will be coming from low-tax and no-tax jurisdictions, so there's a lot of enthusiasm for this new initiative facilitating the provision of information to the Canada Revenue Agency.

Mr. Mike Allen: In this case you've said that it is not specific but is more or less intended for the British Virgin Islands. From what I'm gathering, this change will allow us, if we have other jurisdictions that are low-tax, to implement those agreements too without having to come back to the well with other legislation.

Is that true?

Ms. Alexandra MacLean: In fact Canada has recently entered into...I always forget the name, but the Multilateral Convention on Mutual Administration Assistance in Tax Matters. This is a multilateral agreement with many countries, and all countries participating in it will be able to exchange information with each other. The hope and expectation is that information exchange will become still more efficient and more the norm for the Canada Revenue Agency.

Mr. Mike Allen: Thank you. I'm glad you didn't have an acronym for that.

The last question I have on this is about the back-to-back arrangements. In this legislation there's an anti-avoidance rule concerning these. Can you tell me a little bit about this? Are these

used as a common tax evasion scheme for which we're going to close a loophole?

Ms. Alexandra MacLean: The existing income tax rules have two relevant rules related to interest payments.

One regime is called the thin capitalization regime. That restricts the deduction of interest, by corporations typically, in circumstances where their debt to equity ratio is too high. The assumption is they're using excess debt to create tax deductions in Canada and reduce the Canadian tax base. That's one set of existing rules.

We also have withholding taxes that can apply on payments of interest across the border to non-residents of Canada.

The back-to-back loan measure in budget 2014 addresses structures that avoid either of those sets of rules, essentially by interposing an arm's-length non-resident, typically a foreign bank. In essence, the structure is a Canadian subsidiary, for example, a foreign parent company, a loan arrangement between the two, that would be subject to the thin capitalization rules and/or the withholding tax rules, potentially both. By interposing a foreign bank as a conduit for the interest payments, taxpayers could avoid those rules.

We don't have data precisely on how prevalent the structure was, but we did have information that it was being observed in the private sector.

• (1555)

The Chair: Thank you.

Thank you, Mr. Allen.

We'll go to Mr. Rankin, please.

Mr. Murray Rankin (Victoria, NDP): I think this question is best directed to Mr. McGowan. It builds on some of the things Mr. Brison was asking about in the context of international shipping.

I want to ask about clause 74. It amends the Income Tax Act in a number of ways to allow investments in trusts and partnerships involved in international shipping.

This defines "international traffic" to include "passengers or goods". Does that include oil, commodities like oil? That's on page 183.

Mr. Trevor McGowan: Yes, and if you go to the definition of "international shipping", which is on page 185, and in particular, proposed paragraph 248(1)(g) of the definition, there's an exclusion from what qualifies as international shipping that applies to "oil and gas activities", and that's refining something offshore. We specifically point out that the transportation of oil can include—

Mr. Murray Rankin: So it does include the transportation of oil and gas?

Mr. Trevor McGowan: That's right.

Mr. Murray Rankin: It does. It's sort of a double negative that gets you there. Right?

Mr. Trevor McGowan: That's right. It's an exclusion from an exclusion.

Mr. Murray Rankin: An exclusion from an exclusion is a better way to put it.

I'm a little confused about how the residence of an international shipping corporation would be determined if these amendments come in, and frankly, what the reasons would be for justifying non-taxation of income earned in Canada by one of these international shipping corporations. What's the policy rationale?

Mr. Trevor McGowan: The residency of an international shipping corporation, under these rules, is determined by... If you fall within the rules, you're deemed to be not resident in Canada even though you might otherwise be. The determination of where a corporation is resident is often a question of fact, where you look to not just the place of incorporation but rather to where the mind and management of a corporation lie.

If you had a corporation that had been incorporated in another jurisdiction, but that really had its mind and management in Canada, it could, under the common law test for determining residency, be considered resident in Canada. What these rules do is say that if you're a qualifying corporation involved in these qualifying shipping activities and your income and your assets meet the tests in the rule, and you are incorporated outside of Canada, the rules would apply to say that you're deemed to not be a resident of Canada—this corporation.

The policy in general behind our non-resident shipping rules...and these have to be understood in addition to the rules in I think section 81 that say the income of a non-resident corporation carrying on business in Canada, the shipping business, is going to be exempt from Canadian tax if the country of residence where this corporation is resident grants a similar exemption. There's an element of reciprocity in that, and it's also an international norm with Canada and our trading partners.

Mr. Murray Rankin: If it happened that this international shipping corporation was incorporated in its mind, and business was in a low-tax or no-tax haven, how does it work then?

Mr. Trevor McGowan: Just so I understand your question, you have a corporation, and I don't mean to pick on the Cayman Islands —

• (1600)

Mr. Murray Rankin: Let's pick on the Cayman Islands.

Mr. Trevor McGowan: —incorporated in the Cayman Islands and its mind and management are there as well; they have their headquarters, CEO, the people making the real decisions in the Caymans. Then I guess in general terms, it would not be subject to Canadian tax, unless they're undertaking some Canadian business.

Mr. Murray Rankin: Even with respect to income earned in Canada, they would keep all the money in their tax haven...?

Mr. Trevor McGowan: Yes, that's where I was leading.

As a general rule, they would be exempt from Canadian tax, unless they had some Canadian connection, for example, carrying on business in Canada. In that case, where you're not in a country that has exemption from Canadian tax such that you'd be exempt under section 81, I think you'd still be taxable in Canada.

The Chair: Make this the last question.

Mr. Murray Rankin: Income earned in Canada by one of these international shipping corporations, as defined, would not be taxed.

I'm still having trouble understanding the policy justification for that conclusion.

Mr. Trevor McGowan: For it to be carved out under these rules and these specific amendments, you would have it deemed to be a non-resident under section 261, I think. Then the other component of the rules is under section 81, where there is reciprocity, where the other country in which they are resident provides the same thing to Canadian shipping companies as well. I think that is really underlying the rule as it being—

Mr. Murray Rankin: Reciprocity even with countries such as the one you've mentioned that has zero or low taxation, that's just fine.

Mr. Trevor McGowan: If you had a country that doesn't have this kind of reciprocal treatment, then you wouldn't see any exclusion in section 81 that prevents them from being subject to Canadian tax. Then, if under the general Canadian tax rules they're taxable in Canada, they would be taxable in Canada.

The Chair: Thank you, Mr. Rankin.

Mr. Saxton, you said you had a brief question.

Mr. Andrew Saxton: I do. Thank you, Chair.

My question is on part 1, and it's along the same lines. It's regarding the shipping corporations.

I'm interested to know how international shipping corporations benefit from these technical amendments and ensure they continue to consider Canada as an optimal place for their headquarters.

Mr. Trevor McGowan: The international shipping rules have been around for quite some time, and the purpose is to modernize them. It provides a definition of "international shipping", and what qualifies—we discussed that earlier—which provides certainty to taxpayers.

A lot of the amendments are designed to modernize and provide more flexibility and to reflect modern multinational corporations and their business structures. For example, the rules have been extended to apply not just to corporations as they previously were, but also to trusts and partnerships, which are used more and more in the multinational context, and also to provide a little more flexibility in the ownership requirements, so that modern multinational businesses can be accommodated and these rules aren't providing impediments and pitfalls for these companies with their mind and management in Canada to operate internationally.

Mr. Andrew Saxton: I have one quick follow-up regarding part 1 (1). That is with regard to the Canada apprentice loan to provide apprentices registered in Red Seal trades access to interest-free loans to help with their costs. It totals over \$100 million each year. This is the new Canada apprentice loan program.

Can you elaborate on this tax fairness change and how it will help young Canadian apprentices?

Mr. Miodrag Jovanovic: Essentially, we are proposing to treat these loans similarly to loans provided under the Canada Student Loans Act. When students start paying down interest on these debts, the amount of interest paid becomes a non-refundable tax credit at the 15% rate. Given the similarity in the programs, we propose to extend that treatment to the Canada apprentice loan.

•(1605)

Mr. Andrew Saxton: Thank you very much.

Thank you, Chair.

The Chair: Thank you, Mr. Saxton.

I have a note from Mr. Van Kesteren. Did you want to get in on this round?

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): How much time do we have, Chair?

The Chair: About two minutes.

Mr. Dave Van Kesteren: That should be all right.

I wonder if somebody could answer this question for me. Chatham-Kent—Essex is my riding and is also a farming community. It's also an area that has a lot of wind turbines. There is a measure to help farmers who end up having to sell their livestock due to catastrophic events. Can somebody tell us about that?

If we have time, I'll go into the clean energy provisions as well.

Ms. Alexandra MacLean: I'm sorry, but I seem to be having a little bit of trouble with the acoustics in this room. Did you ask for clarification on the—

Mr. Dave Van Kesteren: There's a tax deferral for farmers in case they have to sell livestock caused by a catastrophic event. Maybe you could elaborate on that.

Ms. Alexandra MacLean: Sure. There is an existing tax rule to assist farmers in situations where they're facing drought, flood or excess moisture conditions which force them to sell livestock, essentially because they can't feed the animals as a result of those conditions. The existing rule allows farmers in those circumstances to defer the income from the forced sale of the livestock until a subsequent taxation year when the expectation would be they would normally be replenishing the herd at that point and they'd have a match between their income from the sale and their expense in acquiring new animals.

This measure from budget 2014 proposes to extend the types of livestock that qualify for this measure to include bees and all types of horses over 12 months of age that are kept for breeding.

Mr. Dave Van Kesteren: I'm probably about out of time.

The Chair: You have 20 seconds.

Mr. Dave Van Kesteren: Maybe I'll catch it on the next round, if there is a next round.

The Chair: No, there's not.

Mr. Dave Van Kesteren: Very quickly then, on clean energy generation.... You're shaking your head. You know what I'm talking about, the capital cost allowance. How will that be beneficial in my area?

Ms. Alexandra MacLean: The existing policy is to provide accelerated capital cost allowance, which is faster tax write-offs for renewable energy equipment and clean energy equipment. Budget 2014 expands the list of equipment that qualifies for that tax incentive to include certain other types of...

Kevin, sorry.

Mr. Kevin Shoom (Senior Chief, International Taxation and Special Projects, Department of Finance): The changes in budget 2014 expand the types of equipment that are eligible for this tax incentive to include water current energy equipment, essentially equipment that can be used to generate electricity through a turbine being placed in moving water, such as a river, without the use of a dam. The other addition to the list of equipment is for gasification equipment. This is equipment that takes waste material and converts it into producer gas or synthetic gas, which can then be used to generate electricity.

This measure expands the ability to make use of this provision to situations where the equipment generates synthetic gas for sale to other users of that gas.

The Chair: I had noticed Mr. Brison. Sorry.

[Translation]

Mr. Caron, go ahead.

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

Let me go back to the issue of international shipping.

Subsection 74(3) reads as follows: "Subsections (1) and (2) apply to taxation years that begin after July 12, 2013."

Why July 12, 2013?

[English]

Ms. Alexandra MacLean: July 12, 2013 is the date that the proposals were first released for consultation, so in order for taxpayers to be aware of the new rules, that's the basic explanation for that proposed coming-into-force date.

[Translation]

Mr. Guy Caron: Okay.

My last question is on trusts and estates.

I asked about the higher tax rate and you said that a general rule applied.

How did we determine whether taxes had to be paid before? What was the tax rate before this bill? What is the difference now?

•(1610)

[English]

Ms. Alexandra MacLean: If I understand correctly, your question is: who pays the tax?

Mr. Guy Caron: Prior to these changes.

Ms. Alexandra MacLean: Prior to these changes.

Mr. Guy Caron: And how was the rate of taxation determined?

Ms. Alexandra MacLean: There are many categories of trusts in the tax rules, but fundamentally two large categories, testamentary trusts and *inter vivos* trusts, so trusts created by will or estate, and all other types of trusts.

Under the existing regime, essentially any trust created by a will qualified as a testamentary trust, so the tax planning that was being observed was taxpayers creating many testamentary trusts for one estate under the same will. In effect, who pays the tax under those circumstances are the trustees of the estate on behalf of, really, the beneficiaries of the estate. Under the pre-existing regime, all those testamentary trusts qualified for the graduated rate structure representing quite a large tax saving for a more sophisticated estate plan.

The other aspect of the tax planning was to leave those trusts in place for many years, much longer than required for the purposes of winding up the estate or resolving the affairs. Under the new rules, the only graduated rate estate, so one estate per deceased individual, for up to 36 months will qualify for graduated rates. Under these rules, essentially, still the trustees of that graduated rate estate are responsible for the payment of the tax, but the major change is the time limit and the imposition of one estate per deceased individual.

[Translation]

Mr. Guy Caron: I would have several other questions, but since our time is limited, I will leave it at that.

The Chair: Thank you.

[English]

Mr. Brison, I understand you have one further question on this part.

Hon. Scott Brison: Yes, on the child fitness tax credit. The Conservatives' 2011 platform said this measure would cost \$130 million a year. Can you confirm the cost of this tax measure?

Mr. Miodrag Jovanovic: The costs associated with the increase to the \$1,000 limit in 2014 for the 2014-15 year is \$25 million. Starting with the 2015-16 year, with the refundable fee, it will increase to \$35 million annually.

Hon. Scott Brison: How much of that is for the doubling of the tax credit and how much of the increase is for making the credit refundable?

Mr. Miodrag Jovanovic: It's roughly two-thirds and one-third. Actually, the \$25 million is mainly attributed to bringing the limit to \$1,000.

Hon. Scott Brison: Okay, two-thirds for doubling, and one-third for making it refundable.

Mr. Miodrag Jovanovic: Very roughly, yes.

Hon. Scott Brison: Thank you.

The Chair: I think that's all for part 1 for now. Obviously, we expect you back for clause-by-clause consideration. On behalf of the committee, thank you so much for being here to answer our questions.

Colleagues, we will now move to part 2, amendments to the Excise Tax Act, GST/HST measures and a related text.

We will welcome back Mr. Pierre Mercille.

We'll go right to members' questions. I believe we have one question from Mr. Keddy.

Mr. Gerald Keddy: Mr. Chairman, I have a very quick question on part 2(c). There have been some claims regarding the rebate for

health care facilities, that this would somehow affect seniors residences, for example. Could you clarify for the record here? Health care services have always received a rebate and will continue to do so. To my knowledge, these facilities will qualify for the GST/HST rebate, so long as they're providing a health service.

• (1615)

Mr. Pierre Mercille (Senior Legislative Chief, Sales Tax Division, Tax Policy Branch, Department of Finance): Yes, for their activities that are linked to the operation of the health care facility, those NPOs which normally don't qualify for a rebate will continue to qualify for the GST/HST charity PSB rebate to the extent to which their expenses are incurred in the course of operating the health care facility. What the amendment does is it clarifies that the rebate is not available for activities other than operating the health care facilities.

Mr. Gerald Keddy: Would one example of that be a rental property that wasn't for health care?

Mr. Pierre Mercille: This is an issue that was brought to us by the CRA, and I believe in that circumstance that's what it is.

Mr. Gerald Keddy: Okay. Thank you.

The Chair: Thank you, Mr. Keddy.

We'll go to Mr. Brison.

Hon. Scott Brison: I have a question on the same issue.

Are you saying the government has had recent disputes with non-profit health care facilities regarding the application of the GST or HST? Are there some specific examples of where the CRA has had some disputes?

Mr. Pierre Mercille: The CRA usually brings issues to our attention because representations are made to them that the rebate should apply in certain circumstances. There are all the steps at CRA where they decide whether they agree or not with the interpretation. In this case, basically they said this interpretation is not how the provision has been applied and interpreted since the GST has existed, but they flag the potential risk.

That's why we're making a clarifying amendment, to make sure the legislation will operate the way it was intended to.

Hon. Scott Brison: If a health care facility operated a residence for families visiting sick loved ones, this would potentially apply to them.

Mr. Pierre Mercille: Maybe, maybe not. It's always a question of facts in those situations. But the way you described it, it sounds more like a hotel than actually—

Hon. Scott Brison: Ronald McDonald House, perhaps?

Mr. Pierre Mercille: It's always a function of how long they are going to stay there. If they go there for two weeks, it's treated like a hotel. It's taxable.

Hon. Scott Brison: Really? So you're saying that someone visiting a relative who has cancer, and is there for...is it two weeks—

Mr. Pierre Mercille: I believe it's less than 30 days, but I would have to check on that. I believe that essentially, if you provide housing that is like a hotel room for two days, then you're in competition with the hotels in the city, so there should be the same tax treatment.

Those rules try to provide equity between various situations. That's why in this case the special rebate for NPOs, which usually don't qualify for a rebate, is available to put them on the same footing as a charity that operates a health care facility. But when those NPOs operate something that is not a health care facility, the intention was never that the rebate be available. When you operate an apartment building, whether it's seniors who occupy the apartment building or it's a regular apartment building, the treatment should be the same. Under the GST legislation, rental housing is exempt. So, basically, the landlord doesn't charge tax to the renters, but they're not allowed to claim ITCs for the tax they incur in the course of operating their residential rental housing.

Hon. Scott Brison: If a health care facility owns a residence for seniors where some care is provided, does the applicability of the GST depend on the level of care that's being provided? Is there a line drawn, depending on how much—

Mr. Pierre Mercille: It's always a case-by-case analysis. There are all sorts of possible situations.

My understanding is that one of the criteria CRA looks for is why a person is going in that particular facility that may be a health care facility. Usually one criteria that is used is the need for health care and supervision of the person. Usually, the person accessing those kinds of health care facilities has to demonstrate that he or she requires a level of care that is more than just something that is closer to an apartment building. Of course, there's a whole spectrum of situations. You can have situations of various levels of care, and at some point it's a case-by-case analysis.

• (1620)

Hon. Scott Brison: I think it would be helpful if you could come back to us with a few examples of where the application of GST would apply and where it would not apply in terms of definitions of residential apartment buildings. In the course of this discussion you mentioned people visiting sick relatives and staying at a Ronald McDonald house, and that such a facility would potentially be subject to GST. I guess there is some ambiguity in terms of—

Mr. Pierre Mercille: I don't know the particular situation of Ronald McDonald, whether they are a charity, so I'm not commenting on that. I'm just commenting on the fact that if it's similar to a hotel room, normally it's taxable.

Hon. Scott Brison: There are hospitals that provide space for people to visit sick relatives, and these apartments or rooms are associated with the hospital. I think having some clarity on that would be helpful, as would some clarity in terms of whether the level of care someone is receiving in that facility would determine whether GST would apply.

The Chair: Colleagues, if we proceed at this pace, we won't get through what we need to get through today.

Monsieur Mercille, could we have that provided to the committee in terms of examples, please?

Mr. Pierre Mercille: Yes, I will make the request to the department.

The Chair: Thank you very much. I appreciate that.

Colleagues, we'll move to part 3, the Excise Tax Act, 2001, with Mr. Adam Martin.

Welcome, Mr. Martin. Thank you for being here today.

I also have notice of a question from Mr. Adler.

Is there anyone else? Just indicate to the chair if you have any questions.

Mr. Adler, please pose your question.

Mr. Mark Adler (York Centre, CPC): Thank you, Mr. Martin, for being here today.

As you know, economic action plan 2014 provided the next step on the road to balancing the budget with a positive revision of the duty on tobacco products. Could you please explain this measure and how it will ensure there is fairness for excessive inventory, to build on the measure we implemented earlier this year?

Mr. Adam Martin (Tax Policy Officer, Sales Tax Division, Tax Policy Branch, Department of Finance): Yes, budget 2014 restored the excise duty on tobacco products to account for inflation since 2002. As part of that measure, the budget also imposed an inventory tax for tobacco products, specifically cigarettes, held at the end of the day on budget day to ensure that the rate increase was also imposed on those products that were held at various steps along the supply chain.

Mr. Mark Adler: Okay, thank you.

Thank you, Chair.

The Chair: Mr. Cullen, please, for a brief question.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I have a question in consideration of how tobacco products are administered by the government.

Is there any difference between tobacco that is used in cigarettes versus that used in cigars or pipe-smoked tobacco when it comes to taxation?

Mr. Adam Martin: We do have various rates for tobacco. We have a rate on cigarettes, and we also have a rate on fine-cut tobacco. Within that would be examples of smokeless tobacco. Chewing tobacco is treated the same way as fine-cut tobacco that you would use in roll-your-own cigarettes. We have a separate rate of taxation for cigars. All of these rates were adjusted for inflation in budget 2014.

• (1625)

Mr. Nathan Cullen: Was any consultation done with the industry with regard to how those adjustments were made from the 2002 rates?

Mr. Adam Martin: Budget 2014 actually just accounts for inflation, so it was more linked to the consumer price index to account for real decrease in those rates over time.

Mr. Nathan Cullen: Was there an impact assessment done? The volumes are significantly different between tobacco that's brought in or sold in Canada for cigarettes and tobacco for cigars. Fine-cut tobacco, I think, is the reference in the act.

Was any impact analysis done in the various industries with this new taxation adjusted for inflation? Is it disproportionate because one is such a smaller volume, as in the case of cigars?

Mr. Adam Martin: We do look at how this would impact all tobacco products. The rate increase is really driven from the corresponding rate increase in cigarettes.

From that point of view, all tobacco products are taxed at a high and stable level in order to discourage their consumption.

Mr. Nathan Cullen: I very much understand that.

My question is whether there was an analysis done in terms of the impact on...in the act it's called fine-cut tobacco. Is that right?

Mr. Adam Martin: That's right.

Mr. Nathan Cullen: I don't want to get my terms wrong.

Was there any analysis done on the impact to industry if there's adjustment in taxation?

Mr. Adam Martin: We look specifically at how this would impact each tobacco product within the tobacco taxation regime.

Mr. Nathan Cullen: Has that been made public?

Was that put out for comment?

Mr. Adam Martin: No, this would be internal analysis.

Mr. Nathan Cullen: Okay.

Is it possible to make the analysis available to the committee?

Mr. Adam Martin: I'd have to look at what we could provide in terms of—

Mr. Nathan Cullen: Through you, Chair, that would be very helpful.

Thank you.

The Chair: If there is anything you can provide, please do so through the clerk.

Thank you, Mr. Martin. We appreciate your being here. We will see you back here at clause-by-clause study, I'm sure.

Colleagues, we'll go to part 4. As you know, some divisions in part 4 have been referred to other committees for study.

We'll move to part 4, division 2, Aeronautics Act.

We have Ms. Shari Currie and Marie-Claude Day. Welcome to the committee.

I have notice of a question from the NDP.

[*Translation*]

Mr. Caron.

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

The main purpose of the proposed amendment is to give more powers to the minister in situations related to class 1, class 2 and class 3 aerodromes and even private airports. Is that correct?

[*English*]

Ms. Shari Currie (Acting Director General, Civil Aviation, Department of Transport): The main purpose of the proposed amendment is to provide the minister with the new authority that would relate to all aerodromes, which would include class 1, class 2, class 3, and all others. It would also provide the minister with regulation-making authority for consultations.

[*Translation*]

Mr. Guy Caron: Okay.

I would like to use as an example the airport in Neuville, a private airport, I believe. In fact, this matter has come up quite regularly in question period. The airport is in a colleague's riding, not my own.

How does the minister's current authority compare to the authority he would have with this amendment?

[*English*]

Ms. Shari Currie: Sorry for the delay; I want to make sure that my answer is appropriate.

In terms of the current authorities, the minister does not have the authority to intervene in that particular aerodrome. Under the new authorities, if that aerodrome or any other aerodrome chose to expand or change their operations, then the minister would have the ability to intervene where there is a risk to aviation safety or it would be in the public interest to intervene.

[*Translation*]

Mr. Guy Caron: Okay.

I would like to make a distinction. Right now, we are talking about the minister's authority, which falls under Transport Canada. The authority over these aerodromes, be they class 1, 2, 3 or private, is still in the hands of the department without necessarily being at the discretion of the minister. Am I mistaken?

● (1630)

[*English*]

Ms. Shari Currie: Currently under the authority and the discretion, we don't authorize aerodromes to be built, and we don't have the authority or the discretion to intervene in the development of the aerodrome. This amendment would provide the authority for the minister to intervene.

[*Translation*]

Mr. Guy Caron: Basically, right now, any decisions related to building or expanding an aerodrome do not need to be approved or authorized by anyone, whether at the provincial or federal level. Is that correct?

[*English*]

Ms. Shari Currie: That is correct.

[*Translation*]

Mr. Guy Caron: After the bill is passed, an authorization will be required. The words "at the discretion of the minister" mean that the department itself can provide authorization.

[English]

Ms. Shari Currie: No.

I would clarify that the department would not be approving the development, expansion, or change in operations of an aerodrome. The department would be able to intervene if there was a fact-based, substantiated complaint brought to it by a concerned party, whether it was the municipality or a member of the Canadian public. The complaint would have to be brought to the department and we would do an evaluation on whether the department or the minister would intervene. That's where the minister's authority would come in to say that you cannot build there because there is a risk to public safety, or you can't build there because it's not in the public interest, or not say anything and the aerodrome could be built.

[Translation]

Mr. Guy Caron: Thank you very much.

[English]

The Chair: You have one minute remaining.

An hon. member: Could I ask a question?

The Chair: Yes, go ahead.

Mr. Murray Rankin: Thank you.

This is just a quick follow-up. The issue is whether it's likely to adversely affect aviation safety or not in the public interest. Is there any structuring of that wide-open discretion as regards public interest? Is there any documentation or guidance that's provided in how that discretion would be exercised?

Ms. Shari Currie: The minister's discretion in terms of public interest is embedded in the Aeronautics Act. The minister would intervene under the four corners of the Aeronautics Act where the principle is embedded in the Aeronautics Act only.

Mr. Murray Rankin: In other words, it has to relate to a matter of aeronautics.

Ms. Shari Currie: It has to relate to the authorities in the Aeronautics Act, yes.

Mr. Murray Rankin: That go beyond simply public safety, obviously, or you wouldn't have put that there. It's something beyond that, yet it must relate to aeronautics policy.

Ms. Shari Currie: Yes.

The Chair: I think that's all I have for this division.

We'll thank our officials for being with us. We'll see you back here again for clause-by-clause study.

We will move to division 3.

I want to welcome our officials to the committee. Thank you so much for being with us here today.

I have notice of a question from Mr. Brison regarding the Canadian high Arctic research station act.

Mr. Brison.

Hon. Scott Brison: What is the rationale for subjecting Canadian high Arctic research station employees to part 7 of the Public Service Employment Act rules concerning political activities?

Mr. Stephen Van Dine (Director General, Northern Strategic Policy Branch, Department of Indian Affairs and Northern Development): Part 7 applies to all federal public servants today. We're aligning that specific provision to that departmental corporation, so that it would be subject to the same requirements of all public servants in the federal public service.

Hon. Scott Brison: It didn't apply or will you confirm that it did not apply to employees of the Canadian Polar Commission?

Mr. Stephen Van Dine: I'm unable to confirm that right now. I'll have to get back to you to see whether that's the case.

Hon. Scott Brison: Will you be able to get back to us and confirm that?

Mr. Stephen Van Dine: Yes.

Hon. Scott Brison: Thank you.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Thank you, Chair.

I have a question and it may be hard to get at, but has the effect of the mandate of the combining of the agencies changed the amount of money being allocated to various types of research being done in the Canadian Arctic?

Mr. Stephen Van Dine: No, this is incremental funding for this purpose. There have been some investments and I can look at the chronology of additional investments that have been made to other Arctic activities over the last number of years. This funding for the combined institution and the science and technology program is incremental over and above what is being spent in the north right now.

• (1635)

Mr. Nathan Cullen: It's more a question of mandate though. With regard to what's being studied and for whom, there's always going to be a competition for dollars when it comes to science. Some of the science being done by this new agency will be done exploring resource potential of the Arctic. Is that correct?

Mr. Stephen Van Dine: I believe you are asking that with the entrance of chairs in the arctic science and technology field, those that are currently in that field will then potentially be in competition for other research dollars that may be available in the future. Is that correct?

Mr. Nathan Cullen: Let me be specific. With this new entity being created, my assumption is that there is research being done about something like the category of resource potential in the Canadian Arctic. Yes?

Mr. Stephen Van Dine: Correct.

Mr. Nathan Cullen: There's also research being done on the impacts of climate change in the Arctic. Is that correct?

Mr. Stephen Van Dine: Correct.

Mr. Nathan Cullen: Both of those will continue.

Mr. Stephen Van Dine: Correct.

Mr. Nathan Cullen: My question is, when you bring those two sources of revenue in and the research that's associated to them, is a certain proportion—I don't know what that proportion is and you may not be able to provide that with the committee, it may be 50-50, 70-30, I don't know—going to change at all?

Is climate impact on science going to go up or down? Is industrial.... To take just these two categories, and I imagine there are others.... Is the proportion of investigation going to change with the new combined entity?

Mr. Stephen Van Dine: We're getting ready for our second call for the science and technology portion. I'll refer the question to my colleague, Dr. Raillard.

Dr. Martin Raillard (Chief Scientist, Canadian High Arctic Research Station, Arctic Science Policy Integration, Northern Strategic Policy Branch, Department of Indian Affairs and Northern Development): CHARS has five science-related priorities, two of which you have mentioned. The first is resource development, baseline information. The second is climate change. The proportion of funding allotted to each will be determined by the CHARS management committee, which has 30 members from academia and northern institutions. The proportion will change every year—it's not fixed—so that the management committee has the ability to allocate different amounts.

Mr. Nathan Cullen: I have one last question, Chair.

Is it just the design of what is being approved here, or attempted to be approved here by Parliament and later on by the House, that confirms those five areas, those five mandates, but doesn't speak to the division of the assets, or the division of money and research dollars over the coming years? Is that correct? I'm not looking to make assumptions here; I'm just looking to understand what it is we're approving and what will be decided later.

Mr. Stephen Van Dine: The matter that the committee and Parliament is considering now is the governance structure. The funding elements are not attached to this particular budget bill. What we are looking for is giving the new board the ability to have decision-making power over the allocations that Dr. Raillard just referred to.

The Chair: I want to thank our officials for being here on this division. I think those are all the questions for now. We will see you later at clause-by-clause study.

We will go to division 4 on the Criminal Code.

I think we have one question, or so, for Mr. Pruden. Welcome to the committee, sir.

I have a question from the Conservative side.

Mr. Saxton, please.

Mr. Andrew Saxton: I have a question on part 4, division 5.

The Chair: No, it's division 4.

Mr. Andrew Saxton: I have nothing for division 4.

The Chair: All right.

Mr. Pruden, you convinced us all with your non-verbal communication.

Mr. Nathan Cullen: Well done.

A voice: It's all in the body language.

The Chair: Colleagues, the next division that we're dealing with at committee is division 8, which concerns the Royal Canadian Mint Act.

I have a notice from Mr. Brison on this.

Mr. Andrew Saxton: Is there a division 5, Chair?

The Chair: Division 5 is not at this committee.

A voice: Is there a motion to keep trying?

Some voices: Oh, oh!

The Chair: Order. Let's keep focused here, ladies and gentlemen.

Let's welcome Mr. Ram to the committee.

I have Mr. Brison for a question, please.

Hon. Scott Brison: We understand that the fiscal impact of this measure on the federal government is neutral. Is there a monetary impact on the Mint, or an impact on the Mint itself as an operation?

• (1640)

Mr. Elisha Ram (Director, Financial Markets Division, Financial Sector Policy Branch, Department of Finance): If the proposal goes forward, the Mint will not be able to charge a profit on domestic coinage or on other goods and services that it sells to the government. So, yes, the Mint's net profit from those business lines will decline; however, it will continue to be able to make a profit on its other business lines.

Hon. Scott Brison: Okay, but will this negatively impact the bottom line of the Mint as an entity?

Mr. Elisha Ram: In the sense that it will have less profit overall than it has had in the past, yes.

Hon. Scott Brison: Have you quantified that?

Mr. Elisha Ram: It's difficult to quantify, because the Mint produces different amounts of coin in any given year, and the value of the numismatic business lines changes over time, so it's something that we will have to negotiate with the Mint by re-negotiating the memorandum of understanding that they have with the government in order to fully understand exactly what this means to the bottom line.

Hon. Scott Brison: Is there a range you can provide to us, just a range or an estimate, a quantum—

Mr. Elisha Ram: The Mint's profit for 2013 after taxes was about \$36 million. A significant portion of that has traditionally come from the domestic circulation coin business. Traditionally, this has been the Mint's largest source of profit. However, with the growth of its numismatic business, that was already projected to change. It was expected that the numismatic business was going to overtake domestic circulation as a source of profit. Our sense is that this is not going to be a huge problem for the Mint.

Hon. Scott Brison: But the quantum roughly, just a random figure.

Mr. Elisha Ram: I don't have that figure in front of me.

Hon. Scott Brison: Can you get back to us with that?

Mr. Elisha Ram: Absolutely.

The Chair: We'd appreciate that information, Mr. Ram.

That's all the questions.

I have notice on that division.

Colleagues division 13 is next, but I don't have any notice of any questions on division 13.

I'm going to move to division 14, the Employment Insurance Act.

I want to welcome you to the committee. Thank you for being with us this afternoon.

I have questions from Mr. Cullen first of all.

Mr. Nathan Cullen: Thank you to the officials that are appearing here again.

Let's start with a premise of the fact. What is the cost estimate for the full take-up of this EI hiring credit over two years, please?

Mr. François Masse (Chief, Labour, Market Employment Learning, Department of Finance): Over the two years of the credits, over 2015 and 2016, it's expected that the total cost of the credits is going to be \$550 million. That's the amount that would be returned to small businesses across the country.

Mr. Nathan Cullen: Is it expected to go beyond the two years?

Mr. François Masse: Not at this point, there's no.... The measure is only for two years.

Mr. Nathan Cullen: How many jobs does Finance Canada estimate will be created as a result of this expenditure of \$550 million?

Mr. François Masse: What's expected is, on average across the economy, providing a savings to small businesses is going to be creating incentives for entrepreneurs to grow their business and hire people. This measure, as I just said, is going to result in \$550 million returning to entrepreneurs. The Canadian Federation of Independent Business has indicated that, in their estimate, it would result in 25,000 people job years.

Mr. Nathan Cullen: Repeat that last sentence again for us, please.

Mr. François Masse: Of course. The last sentence was that the Canadian Federation of Independent Business is expecting that this measure will result in 25,000 people years of employment.

Mr. Nathan Cullen: My question was, what does the Government of Canada estimate the jobs impact of this program is today?

Mr. François Masse: The Department of Finance has not produced a specific estimate of the job numbers that might result from this measure.

Mr. Nathan Cullen: You have not produced it? Have you done such an estimate or analysis?

Mr. François Masse: I'm sorry?

• (1645)

Mr. Nathan Cullen: Has the Government of Canada, the Department of Finance, done an analysis of this program in terms of the jobs impact?

Mr. François Masse: Like any measure, the Department of Finance is providing some analysis to the Minister of Finance in order to help him make his decisions. Of course, I'm not going to

comment on how the minister makes his decisions, but we are doing some analysis and providing some advice.

Your direct question was whether there was a specific job number that was computed by the Department of Finance, and the answer to that question is no, the Department of Finance did not produce a specific number of jobs.

Mr. Nathan Cullen: You can understand the concern of taking \$550 million out of the EI fund and not producing an analysis of the jobs impact was.... I'm trying to be careful of the questions that I send to you and the ones that we reserve for the minister.

Is the government aware of the analysis done by the Parliamentary Budget Officer with regard to this program?

Mr. François Masse: We are aware of the analysis that was done by the PBO and if you're interested in comparisons between the analysis done by the PBO and the analysis by the CFIB, the CFIB has published it on their website. We've noticed that they published on their website a description of their comparative methodologies. That said, this is not something that Finance is commenting on.

Mr. Nathan Cullen: You're not commenting on the Parliamentary Budget Officer's estimate. Can I ask, why not?

Mr. François Masse: I'm sorry?

Mr. Nathan Cullen: Can I ask, why not? Is it wrong, or is it right, or is it in the range?

Mr. François Masse: The department has not done an in-depth analysis of the methodology used by the Parliamentary Budget Officer. At this point, no, we wouldn't be commenting on the reliability of the results.

Mr. Nathan Cullen: Does the PBO estimate of 800 jobs created for the \$550 million less or more than the estimate that the Department of Finance did for the impact of this program?

Mr. François Masse: The Department of Finance did not produce an estimate of the number of jobs. One thing I would flag, as with most policy measures, is it's extremely difficult to isolate the impact of one single measure on something like job creation. There's a number of convergent impacts that can happen on job creation in a given year. It could be coming from the status of the economy. It could be coming from other policy measures like the Canada job grant, for example.

It's very difficult to isolate this measure. I think a testament to that is that two analyses done by two shop staff with economists arrive at wildly different numbers.

Mr. Nathan Cullen: Is it typical for the Department of Finance to rely on person-years for its estimates around a job creation program?

You're relying on the CFIB's analysis. You referred to it. The minister's referring to it. It uses person-years as part of its analysis. Is that a typical measure that the Department of Finance uses for job creation programs: person-years as opposed to jobs created?

Mr. François Masse: If I understand correctly, your question is whether we would refer to "person-years" as opposed to "job in a specific year". That would depend on the policy context. That would depend on the actual measure under consideration. That would depend on the methodology that we might use to produce a specific estimate. So it would depend.

Mr. Nathan Cullen: With regard to this particular initiative, the EI fund has to maintain a balance over a certain period of time. It has to restore itself. Correct?

Mr. François Masse: That is correct.

Mr. Nathan Cullen: What length of time is that? When does the EI program have to get back to that balance point? You've taken money out; it has to get back in.

Mr. François Masse: Yes, that's correct.

The way it works, in last year's budget the government introduced the seven-year rate-setting mechanism. In 2017 that rate-setting mechanism is going to kick in. That means that as of 2017, the EI premium rate is going to be calculated according to the rate-setting mechanism.

The rate-setting mechanism means that over the course of seven years, the account has to be brought back in balance. To be very clear, when we're talking about bringing the account back in balance, it's the total stock of the account. The surpluses that might happen before 2017 will be taken into consideration and will be whittled down, starting in 2017, according to that mechanism.

Mr. Nathan Cullen: Just to confirm one thing, the reason this program is a two-year program is that clock on the seven-year balance with the EI program doesn't start for two years. I don't want to insinuate it; I just want to understand it. Is that why this program is two years? Then would the new balancing of the EI program start two years from now?

Mr. François Masse: I wouldn't speculate on the why, but I can tell you definitely that this program is for two years and that the rate-setting mechanism does start in 2017, the year after this program ends.

Mr. Nathan Cullen: Thank you.

The Chair: Thank you, Mr. Cullen.

I have Mr. Saxton, please.

• (1650)

Mr. Andrew Saxton: My questions are also on the subject of the small business job credit.

I think my colleague opposite might have called it a hiring credit. Although it is designed to increase hiring, it shouldn't be confused with another program that has expired, which was called a hiring credit previously.

The opposition and some others have called this an expenditure. My understanding is that it's a tax reduction. Is it an expenditure or a tax reduction?

Mr. François Masse: It's a return of EI premiums that have been paid by small businesses. Small businesses would be paying the EI premiums throughout the year, and after they file their T4 returns, this amount will be returned to them. It is indeed a return to small businesses.

Mr. Andrew Saxton: It's not an expenditure. It's simply a 15% reduction in the premiums.

Who will benefit from this?

Mr. François Masse: There are over 780,000 small businesses across the country that are expected to benefit from the measure in

both 2015 and 2016. The small businesses are defined as employers who pay \$15,000 in EI premiums or less.

Mr. Andrew Saxton: The same entities that are paying into it, contributing to it, are the ones benefiting from it. It's a reduction in their taxes, basically.

Mr. François Masse: That is correct. You have to pay EI premiums to be able to benefit from this measure.

Mr. Andrew Saxton: Do you know what the average savings would be for these entities?

Mr. François Masse: If memory serves, it's \$350.

Exactly, it's \$350 per year for each year for 2015 and 2016. That is the average.

Mr. Andrew Saxton: Okay.

It has been suggested by some people in the opposition that this program would encourage the firing of employees to receive the credit. In your opinion, do you believe that's the case? Would small business owners actually fire people to collect \$350 in benefits?

Mr. François Masse: Small businesses that are flourishing will expand based on a number of factors, such as the economic climate, sales growth, and exports. So on balance, across the economy, we would not expect the credit to be a disincentive for small businesses to grow.

Mr. Andrew Saxton: So it would be highly unlikely that small businesses would change their business model just to capitalize on a \$350 benefit. They would not be firing people just to receive that benefit. Is that your opinion?

Mr. François Masse: Yes. The only caution is that my comment has to do with on average across the economy; it's very difficult to speculate on the specifics of one very particular business. On balance, across the economy, yes, we are expecting that this measure will not create disincentives for growth.

Mr. Andrew Saxton: Thank you very much.

Chair, how's my time?

The Chair: You have two minutes.

Mr. Andrew Saxton: I have some other questions, but on a different division. Is this simply division 14?

The Chair: That's right.

Mr. Andrew Saxton: Okay. I'll wait for the next one.

The Chair: We'll go to Mr. Brison, please.

Hon. Scott Brison: So you're saying that there has been no internal analysis by the department on how many jobs this credit is expected to create.

Mr. François Masse: I would want to be very careful in qualifying that of course there has been analysis and there have been recommendations made by the department. On the very specific question about whether or not the Department of Finance produced a jobs number estimate, I can confirm that we did not produce a specific jobs number estimate for that measure, but we did conduct the regular analysis that we would do with most policy measures.

Hon. Scott Brison: Have you studied the methodology used by the CFIB?

Mr. François Masse: I'm sorry...?

Hon. Scott Brison: Have you evaluated or studied or analyzed the methodology used by the CFIB?

Mr. François Masse: No, we have not.

Hon. Scott Brison: No. So when an organization that sells memberships to businesses, or any other membership-based organization, comes up with a figure like that, do you embrace that figure as being accurate without having analyzed the methodology?

Mr. François Masse: I wouldn't characterize the Department of Finance as having embraced or endorsed a figure from an outside organization.

Hon. Scott Brison: You do understand that it's highly unusual for... It's not unusual for politicians to necessarily cite one organization's opinion or another's, but it's highly unusual for public servants to do so.

•(1655)

Mr. François Masse: It may be. That's something I couldn't comment on.

Hon. Scott Brison: Have you analyzed the methodology used by the PBO? The CFIB is saying 25,000 jobs; the PBO is saying 800. Have you compared or contrasted their methodologies to try to understand the efficacy of this new measure?

Mr. François Masse: No, we have not.

Hon. Scott Brison: Okay.

Can you provide us with the number of Canadian businesses that paid between \$14,000 and \$16,000 in EI premiums last year?

Mr. François Masse: The number I have is for the number of Canadian businesses that we're expecting will pay between one dollar and \$15,000 in EI premiums next year. That estimate is 780,000 businesses.

Hon. Scott Brison: Can you provide us with the number of Canadian businesses that paid between \$14,000 and \$16,000 in EI premiums last year?

Mr. François Masse: I certainly think we can, yes. I'll just take down a note on that.

Hon. Scott Brison: If there is a disincentive trigger at \$15,000, it would be helpful to understand the quantum of businesses that might be affected.

In terms of the mechanism, if a business were in that range, and let's say the business had qualified for some new hires but then hit the \$15,000 within the same year, it would lose all the incentives. The quantity is around \$2,200, I think, in actual loss if they were to have triggered that or hit the \$15,000.

Mr. François Masse: I'd be happy to provide examples.

Let's look at the very high end, for example. A business paying 25 employees \$20,000 a year would pay a total of \$13,160 in EI premiums. They would be eligible for the credit. They would qualify for a credit of \$1,960. It goes a little bit higher, to the low \$2,000 range, and that would be the maximum amount for it.

Hon. Scott Brison: If they exceeded the \$15,000, would they lose that whole amount?

Mr. François Masse: They would, indeed, yes.

Hon. Scott Brison: You understand, then, why an economist like Jack Mintz refers to that as a potential disincentive.

Mr. François Masse: Absolutely. I think the key difference there in the remarks I've flagged before is that.... We're not commenting on the specific cases of one business that may be facing a very particular situation. On average, across the economy, throughout the entire impact of the measure, we're not expecting this measure to create a disincentive for growing a business.

The Chair: Thank you.

[*Translation*]

Mr. Caron, go ahead.

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

I will ask two questions.

I would first like to go back to the fact that the department did not prepare an analysis regarding the jobs created by this measure. I can understand that, as an official, you do not need to answer political questions. However, as an individual, can you understand why we are reluctant and why we are asking questions about this? You appear before this committee and, when we ask you how many jobs have been created, you say that the study of the Canadian Federation of Independent Businesses indicated 25,000 jobs, without also mentioning the study of the Parliamentary Budget Officer.

Why did you mention the study of the Canadian Federation of Independent Businesses, but not the study of the Parliamentary Budget Officer?

Mr. François Masse: I could have mentioned both studies.

Mr. Guy Caron: Okay.

Also, you mentioned the internal analysis by the Department of Finance that does not deal with the number of jobs created. I am really curious to see it, but unless we submit an access to information request, we will not be able to obtain that document.

Without disclosing the recommendations made in the document, can you tell us what issues were addressed in the advice provided to the minister?

I don't really want to know the details, but I would at least like to know what issues were forwarded to the minister with this analysis.

•(1700)

Mr. François Masse: I don't want to go there. As you know, I am not in a position to speculate or comment on this matter. It is therefore very difficult for me to tell you about the issues addressed in the document.

However, I can confirm that, as for all other measures, we have offered briefings to the minister. We have provided him with information on the measure, scenarios and economic overview. As I mentioned, there is great interest in the number of potential jobs. At the Department of Finance, the number of jobs associated with a specific measure is quite often not calculated. I have in fact identified the complexities and the major risk factor that might come with estimates like that.

Mr. Guy Caron: I can understand that. That is why I did not delve into that aspect.

You have assessed the tax-related costs of the measure. You have probably also assessed the number and the type of businesses that could benefit from it, the sectors that would have something to gain or lose from it. I suspect that you have also calculated the negative effects of the measure.

Basically, what has been studied? I don't really want to know what recommendations and advice were submitted to the minister, but I do want to know what issues were addressed in the analysis.

Mr. François Masse: Your comments are interesting. I can give you clear answers to a lot of your questions.

Earlier, I talked about the number of businesses that would be affected. We are talking about 780,000 businesses across the country, which is 90% of the businesses that pay EI premiums.

Mr. Guy Caron: Yes, but I did not necessarily want the numbers. What items were in the analysis, apart from those that I just mentioned?

I don't really want to know the outcome of the analysis. I want to know what topics were included in the analysis and subsequently submitted to the minister. I don't need to know what the advice and the outcome were. There is a difference between knowing what issues were addressed and what your response was.

Do you understand what I mean?

[English]

The Chair: I think we're getting into areas of the minister making a political decision in terms of what policy the minister chooses. If a member wants to know every single piece of advice that's ever given to the minister, and the minister making the decision, this may be a better question for the minister when the minister appears before committee. That's my advice as the chair. I'm not sure the member's going to get any more information on this line of questioning.

Mr. Guy Caron: If I may, I was trying to be careful and not ask for the advice itself, but just the broad topics that were addressed in the advice. I've been careful, or tried to be.

The Chair: You want everything except the one line which says "with the advice". I think the official has provided all the information the official can provide, so at this point we're sawing sawdust.

It is a valid question for the minister. I would encourage the member to ask it.

[Translation]

Mr. Guy Caron: I am going to share the rest of my time with Mr. Cullen.

[English]

The Chair: I got that from Peggy Nash, so....

Some hon. members: Oh, oh!

Mr. Cullen, on a different topic.

Mr. Nathan Cullen: That sounded like an urban Toronto reference, Chair.

Some hon. members: Oh, oh!

Mr. Nathan Cullen: I would have hoped that would have come out of Alberta, but that's okay.

I have a question around this seven-year levelling factor, around the employment insurance program. When was that brought in?

Mr. François Masse: That was brought in last year.

Mr. Nathan Cullen: Last year, and the clock starts on that in two years' time from now?

Mr. François Masse: To be very exact, they're going to use this mechanism to compute the EI premium rate for 2017. Now, I just want to be very clear that when you're talking about the clock starting to count, the amount that will have to be brought back to balance does include whatever surplus may be gathered between 2009 and 2017.

Mr. Nathan Cullen: That I understand, but you can see that the sequence of events leads one to believe that this particular program that we're discussing today, and the \$550 million that's removed from the EI account to enable this program will not be included, obviously, because it will have been spent in the next 10 years if it's fully taken up. Is that right?

Mr. François Masse: The \$550-million impact of this measure is going to be factored into the EI operating account, so that is correct. That will be—

• (1705)

Mr. Nathan Cullen: It doesn't have to get replaced, I suppose is my question, at the end of that seven-year window.

Mr. François Masse: The EI operating account is the net revenue from EI premiums and the expenditure against the EI programs. This measure is going to be reducing the revenue from EI premiums, so it will have an impact on the net balance of the operating account.

I don't know if that answers that in full.

Mr. Nathan Cullen: Yes, and I want to stay away from the weeds on this, but understand what the actual impact is. Does the \$550 million that's being taken out of the EI account need to be replaced at the end of that seven years or not? That's my question.

Mr. François Masse: Are you asking if there's going to be a measure where...? Actually, I'm sorry, I'm not quite sure. I'm going to try to be as clear as I can, and let me know if it doesn't work out.

Mr. Nathan Cullen: Let me try the question again. Maybe this will help for clarity.

In the past, concerns about the EI account have been that government has been able to go into it, take money out, and use it for general revenue. The government's initiative was to say that what goes into EI should be used for EI, and it balances itself out, but not every year per se, but over seven years.

My question is, is the \$550-million initiative that's leaving the EI account going for something else? Is it part of that seven-year equation? Does it have to be put back in at some point, or does the clock start after the \$550 million has gone out the door?

Mr. François Masse: It's actually going against EI premium revenue, so it's not leaving the EI operating account. It's accounted for in the EI operating account, so that is a bit clearer. Yes, it will be taken into account directly against the operating account balance.

Mr. Nathan Cullen: Again, I want to say, as the chair has guided us away from advice to the minister, but because this is a little bit complicated—I'm not an EI expert, and I don't claim to be—if we could see a table that shows what that seven-year measurement and impact do just to make it more clear for committee members before we get to clause-by-clause, and I don't think it's in the documents that we've received so far, that would be very helpful. Is that possible?

Mr. François Masse: That's something I can look into doing, absolutely, yes.

Mr. Nathan Cullen: Okay.

You mentioned earlier about estimating the jobs impact. You said something about many factors being too risky to do an estimate, and the Department of Finance didn't do an estimate on what the jobs impact is. Can you repeat for me what you said?

Mr. François Masse: Absolutely. As with most initiatives, it's fairly difficult to isolate the forecasted incremental impact of the credit on job creation across the country. Many other factors also contribute to job creation by small businesses. For example, small business will benefit from improvements in general economic conditions, as well as concurrent policy initiatives such as the Canada job grant.

Mr. Nathan Cullen: What Finance doesn't want to do is say that if we do x in the economy, the result is y in terms of job creation. That's why there's not a jobs creation number produced, because of these other factors and variables that are going on, and that's risky to produce such a number.

Mr. François Masse: That's actually a statement of general fact. In general, it's very hard to put a specific job creation number on a policy measure. It can be done. There are risks associated with it, but it can be done.

What I'm saying is that in this specific case, this is not something that the Department of Finance has produced.

Mr. Nathan Cullen: Because of those risks and the responsibility about being accurate. If the Department of Finance comes out and says 5,000 jobs, 50,000 jobs, we expect that to be fairly, if not very, accurate and to accommodate those risks and other factors that are going on in the economy.

Mr. François Masse: There are a number of reasons that come into play when Finance determines whether we're going to embark into a quantitative project and try to produce an estimate for a certain measure. That would be one factor. There are a number of other factors.

The Chair: One quick question.

Mr. Nathan Cullen: I want to follow up on something Mr. Saxton said about this cut-off point and how some analysis has come from some economists.

Part of my concern about the analysis being relied on by the minister is that it's coming out of the CFIB, which employs one full-time economist. I assume the federal government employs more than one full-time economist.

Mr. François Masse: Just to be very clear, the CFIB number that's going around is a number about job creation. My comments earlier about the threshold effect may be similar to what the CFIB

has put out. I'm not sure actually what their comments were, but that was not a CFIB analysis.

Mr. Nathan Cullen: In regard to the question around threshold, Mr. Saxton suggested that the incentive is not great enough as it is designed in this program to have a small business fire somebody in order to achieve this extra benefit. Did you agree with that statement? I think you did. I can't exactly remember your response.

Mr. François Masse: Yes, and the exact response was that on balance across the economy small businesses that are flourishing are expected to expand based on a number of factors, and that this measure is not expected to be creating a disincentive for growth.

• (1710)

Mr. Nathan Cullen: So the reverse must also be true, that if the incentive to fire somebody is not high enough in this program, then the incentive to hire somebody based on all the myriad of factors facing a small business must also be true. How can one be true and not the other?

Mr. François Masse: What we're expecting is that on balance across the economy reducing the cost to businesses can be expected to create incentives for growing, including hiring people. That is on one hand what we said. I don't think that necessarily is contradictory with the other statement, and it's actually related.

Mr. Nathan Cullen: We're talking about the amount of the incentive. If you reduce business taxes by a dollar and say we're going to create a million jobs by just doing a dollar, someone would say it's not large enough to affect a business person's decisions to hire.

If the suggestion is that the disincentive created by dropping below this \$15,000 threshold is not high enough to fire somebody, how can it be suggested that the reverse is suddenly true, even though the incentive is actually much higher to drop below this \$15,000 line? The incentive going that way to reduce your payroll and get below the \$15,000 is much higher than the one if you end up putting yourself above the \$15,000 line.

Mr. François Masse: Again, here the challenge is the transition between the one specific example and the aggregate number. That's why we're saying that in the aggregate that measure is going to result in a cost reduction across 780,000 businesses of \$550 million, and that in aggregate across the economy we're expecting for this measure to create incentives for small businesses to grow their operations.

The Chair: Thank you, Mr. Cullen.

I don't have any other questions on this division from members, so I want to thank our officials for being with us at this session.

Colleagues, I don't have any questions on division 15 either, unless someone indicates so. We'll move to division 16.

I'll just highlight, colleagues, we will not get through these divisions today, so you'll have to indicate to me in some way what you want to do.

We'll go to division 16. We have officials from Transport who we want to welcome to the committee. Welcome. Thank you so much for being with us here today.

We are going to Monsieur Caron.

[Translation]

Go ahead.

Mr. Guy Caron: Thank you very much, Mr. Chair.

We are at division 16, which deals with marine facilities. Ms. Henry, we talked about this at the technical briefing, but I would like to ask you the question again.

As things currently stand, a port authority cannot acquire another port. The bill seeks to partially correct the situation. Is that correct?

[English]

Ms. Joyce Henry (Director General, Marine Policy, Department of Transport): You're correct in saying a Canadian port authority. There are two types of ports, just to sort of back up a little bit. One is the Canada port authorities; there are 18 of those. Currently, they don't have the ability to acquire a public port because they're federal properties. The proposed amendments are to rectify that, to allow them to potentially acquire what are currently Transport Canada-owned ports as part of our divestiture program.

[Translation]

Mr. Guy Caron: Right now, a port authority cannot acquire federal properties, such as lands, buildings or, in this case, existing ports owned by Transport Canada?

[English]

Ms. Joyce Henry: They can manage those facilities on lands if that is given to them in their letters patent. There is a specific schedule for that. They can also lease or own private land. In terms of federal, they can own land in their own right as well, but not federal real property.

[Translation]

Mr. Guy Caron: Historically, why have port authorities not been allowed to acquire federal properties, such as ports? Why is there such a ban?

[English]

Ms. Joyce Henry: That's an excellent question. I'm not completely sure. I have been told that the idea was always that they would be able to have both real property and federal real property.

At this point we're trying to support, in part, the divestiture of Transport Canada-owned ports. We used to have, I think, 180. We have around 53 left. The budget announced that there would be an additional \$43 million over the next few years in order to facilitate that. This is also part of that program, to allow Canadian port authorities to potentially acquire some of our ports.

• (1715)

[Translation]

Mr. Guy Caron: Has a specific port authority approached you to make a request for such an amendment? Of the 18 port authorities that you mentioned, have some approached you or the government, pleading for an amendment to these regulations or this legislation?

[English]

Ms. Joyce Henry: My understanding is that some Canadian port authorities are interested in acquiring certain Transport Canada ports. There is a directive that the federal government has in terms of

divesting. Port authorities aren't at the top of that list. There's sort of a list that has to go through other federal departments, crown corporations, provinces, and municipalities before it can be offered to private interests or Canadian port authorities if this amendment is accepted.

So, yes, I believe some port authorities have talked to us about that.

[Translation]

Mr. Guy Caron: You work for Transport Canada and some ports are currently owned by Transport Canada. Terms and conditions are also followed in terms of Transport Canada's port divestiture program. For instance, they will be offered to a municipality first and foremost, to a region or other areas. If a port authority ends up being in a position to acquire a port owned by Transport Canada, has an order of priority been established for this divestiture offer? Will the port authority jump to the top of the list of parties that might be interested in buying a port belonging to Transport Canada?

[English]

Ms. Joyce Henry: I'm not an expert on the divestiture process; it's a different part of the department.

My colleagues can correct me if they know more, but my understanding is that as an individual, a Transport Canada port is put on the market, for lack of a better term, but as the list is exhausted—federal departments, crown corporations, provinces, and municipalities—at the end of that list would be private interests including, if this is accepted, Canadian port authorities. In that instance, whoever wanted to acquire would put forward their expression of interest and then they would be in some sort of competitive process.

Is that fair?

The Chair: Mr. Van Kesteren.

Mr. Dave Van Kesteren: I want to talk about the Canada Marine Act and our government's strong commitment to environmental protection and proper assessment of projects. I wonder if you could confirm that this act would not allow one existing bypass of our environmental laws and in fact would allow the government to place even stricter environmental considerations on projects.

Ms. Joyce Henry: The current federal environmental laws, including the Canadian Environmental Assessment Act, the Fisheries Act, and laws such as that, would continue to apply.

I think you are probably talking about the second set of amendments that are proposed here. In that regard, the idea is that we would be able to potentially incorporate an existing regime for LNG projects that don't have a current federal regime. We would strengthen the environmental regulations by taking existing and established regimes, in this case in British Columbia, forward into our regulations.

Mr. Dave Van Kesteren: I don't want to put words in your mouth; I just want to understand this. The changes will strengthen the laws and put in better laws to enforce these environmental guarantees. Is that correct?

Ms. Joyce Henry: In terms of existing federal laws like the Canadian Environmental Protection Act and the Fisheries Act, there wouldn't be any changes to those that I am aware of.

What we would be able to do in this instance is to take an established regime, established regulations, laws and enforcement activities.... In this case in the province of British Columbia, they have an established oil and gas regulation commission, and they are used to regulating these types of projects. We don't have that sort of expertise in the federal government at this point. We're hoping to incorporate them as regulations under the Canada Marine Act.

• (1720)

Mr. Dave Van Kesteren: Good. Thank you.

That is all I have, Chair.

The Chair: Thank you.

I have some time for Mr. Keddy on this round.

Mr. Gerald Keddy: I have a quick question for a point of clarification.

With regard to these changes to the Canada Marine Act, there is nothing in these changes that affect the pre-1867 water lots. Those are not a big issue for every port authority, but they are certainly a big issue for areas like Halifax that have a number of them.

Ms. Joyce Henry: No, there is nothing I am aware of in that regard.

Mr. Gerald Keddy: Okay. Thank you.

The Chair: Thank you, Mr. Keddy.

Mr. Brison, you have questions on division 16.

Hon. Scott Brison: Yes.

Are there any rules in place to ensure that local governments are consulted prior to any significant regulatory changes or acquisitions or divestitures that take place under this division?

Ms. Joyce Henry: I would say that there is nothing to prevent consultations by Canadian port authorities vis-à-vis municipalities.

In terms of divestiture, unfortunately that's not my specific area, so I'm not sure. I know a public notice is put out, but I'm not sure about the specifics.

I can come back to you if you wish; it is just not my specific area.

Hon. Scott Brison: Certainly.

There is a difference between having rules in place to ensure that local governments are consulted.... I believe you just said that there are no rules to prevent that from happening, which would imply that it might be a negative.

Again, will you come back to us to answer the question on what rules are in place, if any, to ensure that local governments are consulted?

Ms. Joyce Henry: Can I clarify whether it is in terms of the divestiture of Transport Canada-owned ports, or in terms of a Canadian port authority specifically acquiring Transport Canada...?

Hon. Scott Brison: Well, for any significant regulatory changes, acquisitions, or divestitures that would take place under this division.

Ms. Joyce Henry: What I can say on regulatory changes is that all of our regulations follow the *Canada Gazette* process, so in that sense they are published. Normally, we would have consultations with the department anyway, with stakeholders and the public.

However, there is a formal process under *Canada Gazette*, part I, where regulations are published, and comments are taken into account before we go back to Treasury Board to finalize the regulations in *Canada Gazette*, part II.

In terms of divestiture or acquisition, I'd have to come back to you on that.

Hon. Scott Brison: That would be great. Thank you.

The Chair: Thank you, Mr. Brison.

Mr. Cullen, please.

Mr. Nathan Cullen: With respect to consultation, you talked about LNG as one of the examples. You talked about Prince Rupert at a previous committee hearing. Has the federal government or the Department of Justice considered any of the consultative requirements that may be new based upon recent Supreme Court decisions?

The reason I'm being very specific is that the change you are imagining is that the port authorities in Vancouver, Prince Rupert, and Quebec could pick up a federal port, as the government is looking to divest itself of these ports. The consultation requirements now, particularly on unceded title land, have gone up.

Does this act incorporate any of those enhanced consultation requirements of the federal government?

Ms. Joyce Henry: I just want to be clear in terms of what's being proposed under these amendments.

For a TC-divested port, the only amendment we're making here is that the Canada port authorities would potentially be able to acquire those lands. In terms of everything else, like anything else that goes around the divestiture, that would remain the same. That would include any analysis around what would be required in terms of duty to consult.

Mr. Nathan Cullen: I understand that.

To understand just whether this has been contemplated, is that because of this particular amendment, because port authorities occupy a grey zone? They're a different kind of entity for Canadians to understand who owns them and who directs them. Is it a federal or provincial jurisdiction? This is what it will look like to some courts as an intergovernmental transfer. The requirements on consultation if government is transferring ownership of a property from one agency to another are quite high. When you're starting to talk about energy development, ports being used for LNG terminals and whatnot, that's going to hit a consultation trigger almost automatically.

I'm just asking, was any consultation done with Justice to try to incorporate any of the new regime consultations that I know the B.C. government is going through right now about these types of specified projects? It's a bit of a new world. I'm wondering if this legislation is catching up to that new reality by the Supreme Court.

• (1725)

Ms. Corrie Van Walraven (Manager, Ports Policy, Department of Transport): By the time a port would be able to acquire a public port it would have already been offered to a federal department, a province, and a local municipality. They would have already refused and would not be interested. Then they would be offered to a private citizen or a CPA, a Canada port authority.

Mr. Nathan Cullen: Okay. I understand.

Pardon me, Chair, I know we're trying to keep an eye on time, but this is actually an important piece.

If the initiative here is to free up federal ports to allow for development and that development path that you see is to put port authorities higher up in the line.... I understand that they still fall behind certain.... But they're put forward in consideration for purchasing these lands I assume for development purposes. It's not embedded in the legislation but that's the effect that the government, I assume, is hoping for.

Am I far off here in terms of the analysis and the impact of these...?

Ms. Joyce Henry: You're not off. It's just that Transport Canada has been trying to divest of ports for a while, as you probably know. In terms of the port authorities, the idea is just that it would be one more opportunity for a buyer, potentially. Also, because they have expertise in the port business and have been successful in corridors and gateways in attracting investments and creating jobs, all of that would position them well potentially for that. Up until this point, because of the way the act is written on federal rail property, it hasn't been possible for them to acquire. In terms of duty to consult, obviously it's something the department in general is considering in terms of all of our activities, as probably every department is. In terms of specifics on divestiture, the divestiture program doesn't actually fall under my area so the short answer on the specifics is I don't know.

Mr. Nathan Cullen: Forgive me for maybe going beyond the scope of what you brought to the table

[*Translation*]

Is there a limit for this?

[*English*]

There's no maximum imagined. A port authority couldn't be limited to picking off one or two of these federal ports?

Ms. Joyce Henry: They can't acquire any property like this without the minister's approval through an issuance of what are called supplementary letters patent, which amends their letters patent. In that sense, there is a control mechanism on what they're doing.

Mr. Nathan Cullen: There still remains a mechanism of control at the federal level?

Ms. Joyce Henry: Yes.

Mr. Nathan Cullen: If a port got real ambitious and started to pick up many of these divested federal ports....

Ms. Joyce Henry: The other important point is that they have to be financially self-sustaining. I don't want to call them controls, but there are embedded checks and balances in the Canada Marine Act on that respect as well.

Mr. Nathan Cullen: Thank you very much.

The Chair: I'll go to Monsieur Caron, and then I'll suspend after that.

I'd like the subcommittee to meet with me at the back of the room or in the hallway. I'd like to have a little discussion about how we're going to deal with the next divisions.

[*Translation*]

Mr. Caron, go ahead.

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

Ms. Henry, you answered part of the question I wanted to ask, as you talked about ministerial control. As a result, a specific port could not build a port empire in order to take control of a region. However, a port or a port authority could still decide to buy other ports to subsequently shut them down and thereby reduce competition, correct?

Let me give you a hypothetical example, from my part of the country nonetheless.

The Port of Québec is a port authority. To increase its share of the market, if it decided to gradually buy the ports of Cacouna, Rimouski, Sept-Îles and Matan, and close two or three of them—specifically the one in Sept-Îles because it is probably its major competitor—could things be done in that way?

[*English*]

Ms. Joyce Henry: Again, this gets back to the divestiture program specifics themselves. I believe, but I will check for you, that there is a clause now that requires anyone who is taking over a port, whether it be a port authority or another department, or a municipality, or a province, or whatever, to keep that going as a port for a certain amount of time.

Corrie, I don't know if you want to add to that. You may have more....

• (1730)

Ms. Corrie Van Walraven: That's correct. Also, the Minister of Transport does have final say over any acquisitions of property for a port authority.

[*Translation*]

Mr. Guy Caron: My last question is for you, Ms. Van Walraven.

You said that the ports intended to be divested by Transport Canada had already been offered to the province or the region, but if the province or region declined, they could be transferred to a port authority.

With its maritime strategy, the Government of Quebec is expressing a renewed interest in eventually acquiring certain ports. Can the process be reviewed if the interest is there?

[English]

Ms. Corrie Van Walraven: The current process is subject to the Government of Canada's process for disposal of surplus assets.

Mr. Guy Caron: I'm asking because there is a renewed interest in Quebec to actually acquire those ports. They might actually have said no the first time they were offered under previous governments. Now they might want to acquire them. Are they still going to be offered them before they go to any other potential buyer including port authorities?

Ms. Corrie Van Walraven: They would go through the normal process, which would be to a federal department and then to a province, so that's correct.

[Translation]

Mr. Guy Caron: Thank you.

[English]

The Chair: Thank you for being here. With respect to this division, we will see you at clause-by-clause.

Colleagues, I will suspend for five minutes and we'll have a discussion.

• (1730) _____ (Pause) _____

• (1735)

The Chair: I call this meeting back to order. It is meeting number 56 of the Standing Committee on Finance.

I know we have questions for at least divisions 18, 20, and 21.

We'll ask the officials for those three divisions to come to the table. I just want to get the officials to the table as soon as possible so we can start right into questions.

We'll do questions on division 18.

Do I have a question from the NDP? No.

Okay, we'll go then to the CPC. Are there questions on division 18? No. Okay, thank you.

On division 20, do I have notice of a question from the NDP? No.

Is there a question from the CPC?

We'll have a question on division 20 quickly, please.

Mr. Andrew Saxton: Thank you, Chair.

I just want to clarify that the chief public health officer is not losing any influence or advising powers when it comes to health issues with regard to division 20.

Mr. Sylvain Segard (Acting Assistant Deputy Minister, Strategic Policy, Planning and International Affairs Branch, Public Health Agency of Canada): That is correct. The measure simply separates the authority for management and moves that over to the new president's function, whereas the CPHO will continue to have the same responsibilities and ability to advise directly the minister or Canadians on all matters related to public health.

Mr. Andrew Saxton: Thank you very much. That answers my question.

The Chair: Thank you very much for being here with us this evening, Mr. Saxton.

We'll now go to division 21. Are there any questions on division 21?

We want to thank you for being with us on division 21. We'll see you at clause-by-clause.

Colleagues, the next divisions I have, unless you indicate otherwise, are 22, 26, and 27.

We'll go to division 22.

Mr. Rankin, you can start.

Mr. Murray Rankin: My question concerns this entire division in terms of the objective with respect to credit union regulation. It seems to change the way in which credit unions are regulated. It has provincial and federal reference, and I am a little concerned about the amount of consultation that the officials did with the credit union sector before these changes in the regulatory landscape were introduced. Could someone comment on the nature of the consultation giving rise to these changes?

• (1740)

Mr. Rob Stewart (Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance): I would be pleased to answer that question.

These changes stem from an extensive process of consultation in the broad sense. It was flagged several years ago by the credit union movement and, in particular the credit union centrals, that changes in the regulatory landscape were intended, and it was more recently flagged in the budget of 2014. Over the last two years there have been interactions at a variety of levels, including communications with provinces and provincial officials, who are responsible for the regulation of credit unions, and many meetings with credit unions themselves. Most recently, there has been a technical paper published to elaborate on the rationale behind the changes.

Mr. Murray Rankin: All right.

I have a much more specific question. I am not sure I understand clause 270, which says that a local cooperative credit union, if authorized, can immediately amalgamate.

Could someone explain the intent of clause 270 to me?

Mr. Rob Stewart: Certainly. The changes in this bill reflect a dual agenda. A minute ago we were talking about the regulatory side of that agenda, which is a clarification of the regulatory framework. They also address progressing the government's intention to offer the option of federal credit unions, and in that context, clause 270 speaks to facilitating the amalgamation of credit unions for the purposes of transitioning to the federal system.

Mr. Murray Rankin: Right. You are saying that the federal government is open to exploring alternative models. This section provides the statutory authority for a federally regulated credit union.

Mr. Rob Stewart: That previously existed.

Mr. Murray Rankin: But it's the amalgamation of...

Mr. Rob Stewart: It facilitates the process of becoming a federal credit union. It is an extension of a prior effort.

Mr. Murray Rankin: OSFI will cease to have a dual supervisory role in conjunction with the provinces. Will there continue to be provincial regulation of credit unions, and then OSFI will plug in if and only if a federal credit union is concerned?

Mr. Rob Stewart: That is correct.

Mr. Murray Rankin: I see. There is also a change here proposing, as I understand it, that the CDIC no longer provide lending to provincial credit union centrals. Do I have that right?

Mr. Rob Stewart: That is correct.

Mr. Murray Rankin: What is the objective of that? Why has it been done?

Mr. Rob Stewart: That is part of the clarification of the regulatory framework for provincial credit unions. There are three elements to that framework, which include the cessation of OSFI's supervision of centrals, the removal of CDIC's lending power to credit unions, and changes to the Bank of Canada's authority to provide emergency lending assistance.

Mr. Murray Rankin: Given that, I'm trying to get a handle on the regulatory burden facing credit unions as a consequence. Credit union centrals are already regulated by the provinces. Correct?

Mr. Rob Stewart: Correct.

Mr. Murray Rankin: Essentially we're removing federal regulation, but only in the sense if there's a federally regulated credit union. In other words, is there less of a regulatory burden as a consequence of these amendments than there was before these amendments, or is that a fair way of looking at it?

Mr. Rob Stewart: We would say that the regulatory burden will shift but remain the same. It will shift toward the provinces in respect of the credit union centrals, which they already supervise. Then to the extent that, as the situation exists today, provincial credit unions are operating on the premise that the OSFI oversight—

The Chair: You have 30 seconds.

Mr. Rob Stewart: —of the centrals suffices, provinces may need to provide stronger regulation of provincial credit unions in their jurisdiction, but that will be offset by a reduction in OSFI's supervision.

The Chair: Okay, thank you.

For the Conservatives on this, Mr. Saxton.

Mr. Andrew Saxton: Chair, I do have a question on division 22. In economic action plan 2014 our government promised to support credit unions that wanted to become federally regulated. Can you describe how these measures implement this promise, and can you comment on how this will help these credit unions access some of the tools and benefits of being federally regulated?

• (1745)

Mr. Rob Stewart: Indeed, I'd be happy to comment.

The government announced previously that it would support federal credit unions and provided a legislative framework therefor. In this bill it provides two further actions to support the credit unions becoming federal. One is the amalgamation of power, or the opportunity to streamline amalgamations, which is essentially a series of votes that must be taken between two credit unions when they amalgamate. This bill will streamline that.

It also provides for continuation of something that provincial credit unions currently do, which is provide insurance through their members. In the federal regime, provision of insurance by federally regulated financial institutions is not allowed. We are facilitating a transition from the provincial regime where insurance networking is permitted to the federal regime where it is not.

Mr. Andrew Saxton: Thank you, Chair.

The Chair: Thank you, Mr. Saxton.

Mr. Brison, please.

Hon. Scott Brison: What consultations did the government have with credit unions prior to the measures announced in budget 2014?

Mr. Rob Stewart: I'll ask my colleague to speak to that issue.

Ms. Margaret Tepeczynska (Senior Economist, Financial Sector Policy Branch, Department of Finance): The federal government has been engaging with the credit union industry since more or less 1996. The focus of the conversation has been on the structure of the system, given the evolution of the credit union system, and then we've moved on to the regulatory discussions.

The federal government has ongoing conversations with CUCC, the trade association—

Hon. Scott Brison: The specific measures in budget 2014.

Ms. Margaret Tepeczynska: We have consulted with—

Hon. Scott Brison: Prior to the budget?

Ms. Margaret Tepeczynska: Yes, but we talked in general terms about the changes that we are envisioning—

Hon. Scott Brison: —but not the specific changes. They weren't —

Ms. Margaret Tepeczynska: Not to the regulatory framework per se, but we talked about the need for clarity of mandates. In terms of amalgamations the changes you are seeing to the Bank Act related to amalgamations and continuance are based on discussions that we've had with credit unions. They've identified certain gaps in our legislation and we are now fixing that.

The Chair: Okay, thank you.

[Translation]

Mr. Caron, go ahead.

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

I am interested in the impact that the proposed changes will have on the Movement des caisses Desjardins in Quebec. Desjardins is also outside Quebec, particularly in Ontario, and I know that in other provinces, there are caisses connected to the group.

Based on their current status, these caisses are regulated by the province they are in. Is that correct?

[English]

Mr. Rob Stewart: That is correct.

[Translation]

Mr. Guy Caron: Right now, Desjardins is still protected by the Superintendent of Financial Institutions, but that will no longer be the case afterwards. Is that correct?

[English]

Mr. Rob Stewart: No, OSFI does not oversee Desjardins.

[Translation]

Mr. Guy Caron: Not at all?

[English]

Mr. Rob Stewart: No.

[Translation]

Mr. Guy Caron: Okay.

I will now ask some very broad questions.

What will the impact be on Desjardins, which is still the largest credit union in Canada, given its current make-up and structure?

[English]

Mr. Rob Stewart: There should be no direct impact on Desjardins. It should not change the way in which they operate at all. The clarification of the regulatory regime will require the Province of Quebec to be clear about its intention to stand behind Desjardins as a credit union in the event of the very unlikely scenario in which Desjardins would require emergency lending assistance. That is the only change in the way in which business is going to be done, and it shouldn't change the way Desjardins operates at all.

[Translation]

Mr. Guy Caron: We are talking about Quebec, but what will happen with the other branches outside Quebec? Do you think Desjardins will need to have the same guarantee from each of the provinces in which it has operations right now?

• (1750)

[English]

Mr. Rob Stewart: Technically speaking, it will, but there is an issue here around significance, in terms of the size of the credit union. If it's a very small credit union, it really won't be in a situation where ELA is going to be an issue.

[Translation]

The Chair: Thank you, Mr. Caron

[English]

That is it for division 22. I want to thank the officials on that division for being with us.

Colleagues, we'll now deal with divisions 26, 27, and 31, beginning with division 26.

I have a note from the NDP on division 26. Is that correct, or is it division 27?

Let's go to Mr. Keddy on division 26.

Mr. Gerald Keddy: I have two quick questions.

The Canadian Payments Association plays an important role for consumers. How will these changes actually improve CPA's ability to meet its mandate?

Ms. Erin O'Brien (Chief, Financial Sector Policy Branch, Department of Finance): Thank you for your question.

As you've noted, the Canadian Payments Association is the owner and operator of Canada's national clearing and settlement infrastructure. Through the amendments we are proposing to the Canadian Payments Act, we will be implementing changes to the CPA's governance structure. Notably, we'll be introducing greater independent decision-making within the association. As a result of these changes, we expect that the decisions made by the association in terms of how the core national clearing and settlement infrastructure is operated will be more balanced, reflecting the three public policy objectives that the government has for the association: safety and soundness; efficiency of the systems; assurance that the systems are operated for the benefit of consumers and business users.

Mr. Gerald Keddy: Really, at the end of the day, are we talking about enhanced oversight or better oversight for consumers?

Ms. Erin O'Brien: It isn't oversight per se. The Canadian Payments Association, as I said, owns and operates the systems that are used by Canadian financial institutions to exchange value among themselves. It's just to ensure that decisions made by the Canadian Payments Association's board will reflect the government's broader public policy objectives.

Mr. Gerald Keddy: Better oversight on payment mechanisms and user experience for consumers was all I was getting at.

Ms. Erin O'Brien: Thank you.

The Chair: That's all I have on division 26.

We'll move to division 27.

[Translation]

Mr. Caron, go ahead.

Mr. Guy Caron: Division 27 is very much about the definition of system risk. Is it not a legislative response to the Supreme Court decision about the federal government's jurisdiction over securities regulators?

[English]

Ms. Erin O'Brien: Not specifically. In terms of our review of the Payment Clearing and Settlement Act, we've looked at expanding the definition of systemic risk to be more consistent with recent international principles coming from the Bank for International Settlements and the committee there to ensure that our definition of systemic risk is more consistent with those principles. However, it is consistent with the definition as outlined in the federal securities regulations.

[Translation]

Mr. Guy Caron: So the idea is to make the definition more consistent for the Bank of Canada based on what is already there in terms of securities regulations. Is that correct?

• (1755)

[*English*]

Ms. Erin O'Brien: It's a modernization of the term, given recent experience.

[*Translation*]

Mr. Guy Caron: Let's connect this legislative provision with the one about securities.

Has a legal and constitutional analysis been done on the merits and constitutionality of the definition provided in order to ensure that it complies with the Supreme Court decision from December 2012?

[*English*]

Ms. Erin O'Brien: Rob will take that.

Mr. Rob Stewart: My apologies for stepping in, but I'm also responsible for the initiative on this on the securities regulation side.

The definition we're using is subject to extensive legal review and analysis—

[*Translation*]

Mr. Guy Caron: So you have an analysis—

[*English*]

Mr. Rob Stewart: —in consideration of the fact that federal legislation has been proposed once and received judgment from the Supreme Court.

[*Translation*]

Mr. Guy Caron: It is an analysis that takes into consideration the decision and limits imposed by the Supreme Court.

[*English*]

Mr. Rob Stewart: Yes, indeed.

[*Translation*]

Mr. Guy Caron: Thank you very much.

The Chair: Thank you, Mr. Caron.

[*English*]

Is that it for division 27? Okay.

I thank the officials on that division so much for being with us and staying for the extra time. We do appreciate that.

We'll now finish with division 31.

I only have notice from Mr. Brison, so unless I hear otherwise, I will go to Mr. Brison first for that.

Hon. Scott Brison: Are the measures in division 31 consequential measures resulting from measures in Bill C-42 and Bill C-45?

Mr. Dominique Laporte (Executive Director, Pensions and Benefits Sector, Treasury Board Secretariat): Yes, they are.

Hon. Scott Brison: Then why would those measures not have been included in the previous budget bill, Bill C-45?

Ms. Deborah Elder (Acting Director, Pensions and Benefits Sector, Treasury Board Secretariat): At that time we were just focusing on the pension reform of the four major public sector pension plans: the members of Parliament, the public service, the RCMP, and the Canadian Forces. When Bill C-42 was tabled, at that time the public service pension plan had a retirement age of 60, and therefore that's why these provisions weren't included in that bill.

Hon. Scott Brison: Could they not have been included in Bill C-45?

Ms. Deborah Elder: Not at that time, no.

Hon. Scott Brison: Thank you.

The Chair: Okay, that's it.

Thank you so much for being here, and again, thank you for staying until the end. We do appreciate that.

Colleagues, I appreciate your indulgence to keep the meeting going past 5:30.

We do have a vote. The bells are ringing.

I'll see you on Monday.

The meeting is adjourned.

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