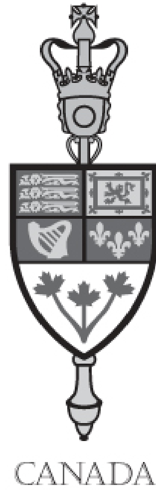
SENATE  SÉNAT

CANADA

REPORT ON THE SUBJECT MATTER OF PARTS 1, 2, 3 AND DIVISIONS 1, 8, 13, 14, 19, 23, 25, 30 AND 31 OF PART 4 OF BILL C-43, A SECOND ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON FEBRUARY 11, 2014 AND OTHER MEASURES

Standing Senate Committee on National Finance

FOURTEENTH REPORT

Chair
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Deputy Chair
The Honourable Larry Smith

December 2014

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1 INTRODUCTION

Bill C-43, A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures (short title: "Economic Action Plan 2014 Act, No. 2") was introduced and read for the first time in the House of Commons on 23 October 2014.

As its short and long titles show, the purpose of Bill C-43 is to implement the government's overall budget policy introduced in the House of Commons on 11 February 2014. Consistent with established legislative practice, it is the second budget implementation bill for the 2014 federal budget. A first bill, Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures, was introduced in the House of Commons on 28 March 2014 and received Royal Assent on 19 June 2014.

Bill C-43 is divided into four parts. Part 1 would implement income tax measures (clauses 2 to 91). Part 2 would implement certain goods and services tax and harmonized sales tax (GST/HST) measures (clauses 92 to 99). Part 3 would implement measures respecting the *Excise Act, 2001* (clauses 100 and 101). Finally, Part 4 would implement various measures, notably by amending a number of Acts.

On 30 October 2014, the subject matter of Bill C-43 was referred to the Standing Senate Committee on National Finance for in-depth study. To assist the Committee with its study, six other standing Senate committees were authorized to examine the subject matter of certain divisions of Bill C-43 in advance of its coming before the Senate:

- the Standing Senate Committee on Banking, Trade and Commerce: Divisions 9, 12, 18, 22, 26 and 27 of Part 4;
- the Standing Senate Committee on Transport and Communications: Divisions 2, 6, 10, 11, 16 and 21 of Part 4;
- the Standing Senate Committee on Social Affairs, Science and Technology: Divisions 5, 7, 17, 20 and 24 of Part 4;
- the Standing Senate Committee on Energy, the Environment and Natural Resources: Divisions 3, 28 and 29 of Part 4;
- the Standing Senate Committee on Foreign Affairs and International Trade: Division 15 of Part 4; and
- the Standing Senate Committee on Legal and Constitutional Affairs: Division 4 of Part 4.

Therefore, Parts 1, 2 and 3 and Divisions 1, 8, 13, 14, 19, 23, 25, 30 and 31 of Part 4 of Bill C-43 were examined by the Standing Senate Committee on National Finance (the Committee). However, the Committee is responsible for conducting the clause by clause study of the entire bill.

As part of its pre-study of Bill C-43, which took place between 4 and 20 November 2014, the Committee held six meetings and heard from 46 witnesses from five departments, two federal agencies and one Crown Corporation, as well as representatives from nine non-federal government organizations.

The full list of witnesses is located in Appendix A. The name of the organization that submitted a brief to the Committee is located in Appendix B.

2 PART 1 – WOULD IMPLEMENT CERTAIN INCOME TAX AND RELATED MEASURES PROPOSED IN THE 2014 FEDERAL BUDGET

During the Committee's study of Part 1, officials from the Department of Finance Canada explained the 24 measures contained in Part 1 and answered questions from Committee members. In addition, the Committee heard the testimony of representatives from seven organizations interested by the proposed measures.

2.1 Extension of Exemption for Dispositions of Property Used in Farming and Fishing Businesses (clauses 3, 11, 13, 14, 15, 28, 30 and 44)

The *Income Tax Act* provides the estate of a deceased owner of a qualified farming or fishing property with a tax-deferred rollover if that property is bequeathed by the deceased taxpayer to his/her child, grandchild or great-grandchild. To qualify for the rollover, that property must have been used more than 50% of the time in a farming or fishing business. As well, the lifetime capital gains exemption is available to taxpayers who sell qualified farming or fishing property if the property has been used more than 50% of the time in a farming or fishing business.

Part 1 would amend the *Income Tax Act* to clarify that the intergenerational rollover and lifetime capital gains exemption provided for farming and fishing property would apply to property that is used more than 50% of the time for a combination of farming and fishing.

Officials from the Department of Finance Canada informed the Committee that there are currently in the *Income Tax Act* special tax rules for farming and fishing businesses regarding the intergenerational rollover and lifetime capital gains exemption. However, businesses that are a combination of farming and fishing activities cannot combine those two activities to reach the threshold of 50% and are therefore not eligible for those special tax rules. This measure is intended to address such situations.

2.2 Extension of Tax Deferral Provision for Breeding Animals (clauses 7 and 17)

According to section 80.3 of the *Income Tax Act*, a taxpayer carrying on a farming business in a prescribed region of drought, flood or excess moisture conditions at some time during the current fiscal period can defer a portion of the income from the sale of breeding animals until the next taxation year, or longer if the region continues to be prescribed. The portion that can be deferred depends on the percentage reduction in the size of the breeding herd: up to 30% of the net sales amount if the herd is reduced by at least 15% but less than 30% and up to 90% if the herd is reduced by more than 30%. Deer, elk and other similar grazing ungulates, bovine cattle, bison, goats and sheep that are kept for breeding purposes, as well as horses bred to produce pregnant mares' urine for sale, must be older than 12 months.

Part 1 would amend the definition of the term "breeding animals" to remove the reference to horses bred in relation to commercial production of pregnant mares' urine, and to add a reference to horses older than 12 months that are for breeding purposes. As well, definitions for the terms "breeding bees" and "breeding bee stock" would be added. "Breeding bees" and the larvae of those bees would not be used principally to pollinate plants in greenhouses. The proposed measure would provide the formula for calculating the amount of income eligible for deferral when a taxpayer in a prescribed region reduces his/her breeding bee stock, with this formula consistent with that which currently exists in relation to a breeding herd, and would address the unit of measurement in estimating a breeding bee stock. These proposed changes would apply to the 2014 and later taxation years.

2.3 Amateur Athlete Trusts (clause 50)

Part 1 would amend the *Income Tax Act* to permit income contributed to an amateur athlete trust to be included in the definition of "earned income" for Registered Retirement Savings Plan (RRSP) contribution limit purposes. It would also amend the *Income Tax Act* to exclude amounts distributed to the beneficiary of an amateur athlete trust so that income that is directly related to an individual's athlete status is not counted twice as earned income.

These amendments would apply to 2014 and subsequent taxation years. Individuals would also be able to submit an election to the Minister of National Revenue before 3 March 2015 to have the amendments apply retroactively to the 2011, 2012 and 2013 taxation years. The annual limit for RRSP contribution purposes would also be redefined for each of these years and any entitlement to make additional RRSP contributions would be added to the individual's RRSP contribution limit for 2014.

Officials from the Department of Finance Canada informed the Committee that the current rules regulating amateur athlete trusts were created at the time when Olympic athletes were required to retain amateur status. Under those rules, athletes have the possibility to set aside income earned from various sources such as sponsorships or speaking engagements in a trust. They have to wind up the trust within eight years after the end of their professional career. The Committee was told that the proposed measure is a relatively minor change to allow athletes to recognize income they contributed to an amateur athlete trust for RRSP contribution purposes.

Following a question from a Committee member, officials mentioned that although they do not know the number of athletes who would take advantage of this proposed measure, there are between 1,700 and 1,800 athletes who receive financial support from Sport Canada annually. They added that only a small proportion of these athletes would benefit from this measure as the income earned varies significantly from one athlete to another and many athletes do not have large income.

Lastly, officials told the Committee that the federal fiscal cost of the proposed measure would be small.

2.4 Definition of "Split Income" (clause 37)

Part 1 would amend the *Income Tax Act* to "[include] in the definition of 'split income' income from a business or property that is paid or allocated to a minor child from a partnership or trust where a person related to the child is engaged in the activities of the partnership or trust to earn that income".[1]

This proposed measure would apply to the 2014 and subsequent taxation years.

Officials from the Department of Finance Canada indicated that the tax on split income was introduced in the 1999 federal budget so that the maximum rate of taxation applies to income received by children under 18 years old in certain circumstances. In particular, the Committee was told that this measure targeted tax-planning structures that allowed the business income of parents to be recognized as the income of children under 18 years old.

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1 Department of Finance Canada, "Harper Government Tables Notice of Ways and Means Motion to Implement Tax Measures in Economic Action Plan 2014," News release, 10 October 2014.

2.5 Elimination of Graduated Rate Taxation for Trusts and Certain Estates (clauses 2, 8, 9, 10, 12, 16, 26 to 28, 31, 38, 42, 43, 45 to 49, 51, 53 to 58, 60 to 63, 67, 71 to 73, 76 and 80)

A trust is a type of legal arrangement under which one person – the trustee – holds property for the benefit of another person – the beneficiary. For tax purposes, there are two types of trusts: testamentary and "inter vivos". A testamentary trust is a trust created as a consequence of a person's death; its terms are usually established in the deceased's will. Inter vivos trusts are all trusts that are not testamentary trusts; "grandfathered" inter vivos trusts are inter vivos trusts that were created before the taxation of capital gains in 1972.

As the federal income tax system treats both types of trust as taxpayers, trusts are required to pay tax on their taxable income. In calculating that income, trusts are entitled to deduct income paid in that year to their beneficiaries or heirs, which reduces the tax payable by the trust. The beneficiaries must include that income when calculating their income for tax purposes and pay tax at their marginal rate of taxation.

Income not distributed to beneficiaries must be included in the trust's income for tax purposes and tax must be paid at the appropriate rate. The tax rates applied to testamentary trusts and grandfathered inter vivos trusts are the same rates that are applied to individuals. Inter vivos trusts that are not grandfathered calculate their federal tax using the highest federal marginal tax rate applied to individuals, which is currently 29% as well as the top provincial marginal rates.

Part 1 would amend the *Income Tax Act* to apply the highest federal marginal tax rate – currently, 29% – to testamentary and all inter vivos trusts; with this change, all trusts would be taxed at the same rate. To allow estate planning, the *Income Tax Act* would be amended to apply the graduated rates to estates for up to 36 months following the individual's death and – consequently – the estate's administration; such an estate would be known as a "graduated rate estate". These proposed measures would apply to existing and new trust and estate arrangements for the 2016 and later taxation years.

The Committee learned that there would be a special exemption for trusts for beneficiaries who are eligible for the Disability Tax Credit. Thus, those trusts would still have a graduated rate structure.

Moreover, for the 2016 and later taxation years, the *Income Tax Act* would be amended to require testamentary trusts to have a fiscal period that coincides with the calendar year, and to pay tax in instalments.

In response to a question from a Committee member, officials from the Department of Finance Canada explained that these measures were first announced as part of a consultation project in 2013 and subsequently announced in the 2014 federal budget. The proposed measures are expected to increase federal revenues by approximately $70 to $75 million annually.

2.5.1 Estate Donation

Officials from the Department of Finance Canada explained that while donations made by will were deemed to have been made by the deceased person, donations made by the trustees of an estate were treated as being made by the estate. With the proposed changes, all donations would be deemed to have been made by the estate and would give the trustees of the estate the option to apply for the Charitable Donations Tax Credit.

2.5.2 Proposed Amendments

Invited to comment on the proposed measures, representatives from Rogan Investment Management and McMillan said that although the proposed changes contain some exemptions such as the treatment of disabled beneficiaries, they are particularly problematic for trustees who do not have the power to distribute certain types of trust income. They therefore suggested three amendments to the proposed measures.

The first amendment they proposed was to reconsider the 36-month period after death as it might not be sufficient to wind up an estate. Representatives added that this period is not responsive to the non-tax related circumstances of many estates and is inconsistent with some provincial legislation, such as Ontario's and Alberta's legislation.

The second amendment they suggested was to allow for ministerial discretion to obtain relief in certain cases and to include grandfathering options. They argued that as with any policy change, there could be unintended consequences during the administration of the proposed rules and that these could be addressed through the ability of the Minister of National Revenue to extend the period during which the estate is subject to tax at the graduated levels. Furthermore, they observed that many Canadians have provided for the establishment of testamentary trusts in their wills for which they no longer have the capacity to make changes and therefore advocated for the inclusion of grandfathering options. These options could be the extension of the period during which graduated rates apply to testamentary trusts with minor beneficiaries until they reach the age of majority.

Finally, the third amendment they presented was to delay the implementation date of the proposed measures to 2017. Representatives explained that given the aging population of Canadian investors, a significant number of Canadians would not be aware of the proposed changes and would continue to establish testamentary trusts on the expectation that they would be taxed at a graduated rate.

2.6 Non-resident Trust Rules (clauses 23 and 24)

The non-resident trust rules in the *Income Tax Act* are designed to discourage Canadians from using non-resident trusts to avoid paying Canadian taxes; this objective is attained by taxing the income and gains of the non-resident trust as if the trust was resident in Canada. These rules were recently amended by the *Technical Tax Amendments Act, 2012*.

Officials from the Department of Finance Canada told the Committee that under the foreign accrual property income rules, the non-direct trust rules deem many non-resident trusts to reside in Canada if they have a strong connection to Canada, such as a Canadian-resident contributor or beneficiary. Consequently, trusts in an offshore jurisdiction with strong ties to Canada should be taxable in Canada. However, an "immigration trust" exemption is given to trusts in situations where the contributor to the trust has resided in Canada for less than 60 months. Part 1 would repeal that exemption.

Officials indicated that this proposed measure would have a revenue benefit for the federal government of approximately $25 to $30 million annually.

2.7 Taxation of Charitable Donations Made on Death of a Taxpayer (clauses 29 and 34)

Individuals are permitted to claim a tax credit for a donation or gift made to a "qualified donee". A donation or gift made as a consequence of an individual's will is deemed to have been made immediately before the individual's death, and the resulting tax credit is applied against the deceased individual's

taxable income. Similarly, a donation or gift made by a deceased individual's estate is applied against the estate's taxable income.

Part 1 would amend the *Income Tax Act* to permit a deceased individual's estate to claim, in one of three periods, a tax credit for a donation or gift: the taxation year of the estate in which the donation or gift is made; a taxation year of the estate that is earlier than the year in which the donation or gift is made; or the last two taxation years of the individual. In order to qualify for the tax credit, the donation or gift provided pursuant to the will would have to be transferred to the "qualified donee" within 36 months after the individual's death.

2.8 Accelerated Capital Cost Allowance for Clean Energy Equipment (clauses 85 and 90)

Part 1 would amend classes 43.1 and 43.2 of Schedule II of the *Income Tax Regulations* to expand eligibility for calculating the accelerated capital cost allowance for clean energy generation and conservation equipment to include water-current energy equipment[2] and a broader range of equipment used to gasify eligible waste.[3]

This change to the eligibility criteria would apply to property acquired after 10 February 2014.

2.8.1 Proposed Amendments

Invited to comment on the proposed measure, representatives from Enerkem said that they support the expansion of the eligibility for the accelerated capital cost allowance for clean energy generation equipment. However, they indicated that neither the current list of equipment eligible for that allowance nor the proposed changes would include the production of some type of clean energy such as liquid transportation biofuels and biochemicals. They explained that the proposed measure would expand the eligibility to a broader range of equipment including equipment used to gasify eligible waste while explicitly excluding the same equipment used to produce biofuels or chemicals. Consequently, they recommended that clause 90(4) be amended by deleting two parts. The first part is within parentheses and reads "other than producer gas that is to be converted into liquid biofuels or chemicals". The second part reads "equipment used to convert producer gas into liquid biofuels or chemicals".

2.9 Foreign Accrual Property Income Rules (clause 25)

Officials from the Department of Finance Canada informed the Committee that under the foreign accrual property income rules, income from the insurance of Canadian risks is included in a taxpayer's income. In order to avoid this rule, taxpayers can transfer their portfolio of Canadian insurance into a foreign affiliate and then swap that portfolio of insurance with another portfolio from a foreign reinsurance[4]

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[2] Water-current energy equipment is "equipment used to generate electricity using kinetic energy of flowing water, otherwise than by diverting or impeding the natural flow of the water or by using physical barriers or dam-like structures". See Department of Finance Canada, *Explanatory Notes Relating to the* Income Tax Act, Excise Tax Act *and Related Legislation*, August 2014.

[3] Producer gas means "fuel the composition of which, excluding its water content, is all or substantially all non-condensable gases that is generated primarily from eligible waste fuel using a thermo-chemical conversion process and that is not generated using any fuels other than eligible waste fuel or fossil fuel". See Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act, Excise Tax Act and Related Legislation*, August 2014.

[4] Reinsurance refers to redistributing or diversifying the risk or threat associated with the business of issuing policies.

company. As a result, the Canadian subsidiary would have a foreign portfolio and the foreign insurance company would have the Canadian policy. Although the Canadian subsidiary would still be earning income from Canadian risks, that income would appear to be through a series of transactions from a foreign source and would therefore not be subject to the foreign accrual property income rules. The goal of the proposed measure is to make that income subject to the foreign accrual property income rules.

Thus, Part 1 would expand the foreign accrual property income rules so that income earned by a Canadian financial institution for insurance policies associated with persons, property or businesses in Canada would be included as foreign accrual property income of the financial institution if those policies are transferred to a third party through a foreign affiliate of the Canadian financial institution. This arrangement is referred to as an "insurance swap".

Officials told the Committee that this measure would increase the federal government's revenues by about $250 million annually.

2.10 Definition of "Investment Business" (clause 25)

Part 1 would amend the definition of the term "investment business" so that foreign affiliates that provide financial services are eligible for an exemption from the foreign accrual property income rules only if certain criteria are met. For example, the parent corporation of the foreign affiliate must be a regulated Canadian financial institution.

2.11 Back-to-Back Loan Arrangements (clauses 5, 6 and 64)

The *Income Tax Act's* "thin capitalization" rules limit the ability of Canadian-resident corporations to reduce their taxable income through loans entered into with, and interest payments made to, a related non-resident corporation or a related beneficiary of a trust. In general, interest may not be deducted by a Canadian-resident corporation for tax purposes if the total debt of the corporation is more than 1.5 times the corporation's equity. Additionally, subject to any reduction provided under a tax treaty, Part XIII of the *Income Tax Act* imposes a 25% withholding tax on interest paid by a Canadian-resident corporation to a non-arm's length non-resident corporation.

Part 1 would amend the *Income Tax Act* to prevent a corporation from circumventing the "thin capitalization" rules and the Part XIII withholding tax through the use of a loan entered into with a foreign intermediary, such as a foreign bank; these loans are known as "back-to-back" loans. In general, with the proposed changes, the debt and interest owed by the Canadian-resident corporation to the foreign intermediary would be included in the calculation of total debt for purposes of the thin capitalization rules and Part XIII withholding tax respectively.

In response to a question from a Committee member, officials from the Department of Finance Canada explained that the current rule generally applies to longer term loans, which are over a year, with an interest rate described as "less than reasonable". Under the current rule, a company is considered to have received interest whether or not the amount due was paid, which can have unfavorable consequences on taxpayers. They added that the proposed measure would clarify the rule and provide relief for taxpayers. The Committee learned that the proposed changes were designed to address existing technical flaws identified by taxpayers. The proposed measure would, in general terms, ensure that the taxpayers are not taxed twice.

2.12 Extension of Tax Credit for Interest Paid on Students Loans (clauses 35 and 36)

Part 1 would expand the student loan interest tax credit to include interest paid on Canada Apprentice Loans. This would be effective 19 June 2014, the day on which the *Economic Action Plan 2014 Act, No. 1*, was given Royal Assent. Division 30 of Part 6 of that Act brought into force the *Apprentice Loans Act*, which provides financial assistance to help apprentices with the cost of training, as well as interest-free loans until apprentices complete their training.

Officials from the Department of Finance Canada explained that the Canada Apprentice Loan program that was announced in the 2014 federal budget was designed for apprentices in Red Seal trades and is similar to the Canada Student Loan program.

They also indicated that although *the Economic Action Plan 2014 Act, No. 1* already received Royal Assent, the Canada Apprentice Loan program has not yet been launched. They committed to providing the Committee with the effective launch date of the program as well as the average cost of apprentice training. At the time of writing, the Committee had not yet received the requested information.

2.13 Cost of Using Excess Liquidity of Foreign Affiliates to Canadian-Based Banks (clauses 20, 25 and 40)

Part 1 would allow foreign affiliates of Canadian banks to use their excess liquidity to make loans to their Canadian parent bank for use in the Canadian parent's operations without those loans being considered foreign accrual property income.

Officials from the Department of Finance Canada appearing before the Committee confirmed that the current foreign accrual property income rules require Canadian parent companies to include these loans in their income every year, even if they are not paying out dividends to their foreign affiliates.

2.14 Securities Transactions and Base Erosion Rules (clause 25)

Part 1 would amend the foreign accrual property income rules so that certain Canadian government debt securities transactions between foreign affiliates and their Canadian parent banks for arm's-length customers would be exempt from the foreign accrual property income rules relating to base erosion. These rules prevent undue erosion of the Canadian tax base by Canadian banks that shift business income to their foreign affiliates.

The Committee learned from Department of Finance Canada officials that certain jurisdictions took advantage of the existing Canadian rule by creating a regulatory structure whereby a taxpayer could elect to be treated and regulated as a bank, even if the taxpayer was just an investment holding company, in order to avoid the foreign accrual property income rules.

The officials said that Part 1 would implement a measure that would restrict access to this exception to foreign affiliates controlled by Canadian financial institutions.

This new rule presumes that, if a corporation is involved in the Canadian banking sector, it is likely that it will also be involved in this sector in the country where it is a non-resident for tax purposes, and that it will be carrying out banking activities, insurance activities or activities with other financial institutions.

According to officials from the Department of Finance Canada, the proposed amendments are part of the relieving measures agreed to in response to submissions from Canadian banks regarding the

operation of the foreign accrual property income rules. In particular, this rule would better accommodate security transactions by foreign affiliates of Canadian banks.

2.15 Modernization of Life Insurance Policy Exemption Test (clauses 52, 79, 81, 82, 83, 84, 86 and 87)

When invited to comment on the proposed amendments, officials from the Department of Finance Canada explained to the Committee that Part 1 would modernize the tax rules for the life insurance policy exemption test. This test is used to determine the extent to which an insurance policy is "savings-oriented" and thus a non-exempt policy that is taxed in the hands of the policyholder, or "protection-oriented" and thus an exempt policy that is taxed in the hands of the insurer.

They added that, on two occasions, the Department of Finance Canada had released for consultation measures to modernize the exemption tests, in particular to reflect increased life expectancies. Consultations have taken place with the Canadian insurance industry. The purpose of the proposed amendment is to better measure the insurance component compared with the savings component. The rules, which are very technical, would apply to insurance policies issued after 2016. According to officials, the rules would tighten the regulations and would generally be supported by the Canadian insurance industry.

2.16 Foreign Affiliate Rules and the Use of Partnerships (clauses 4, 19 and 21)

Part 1 proposes a series of highly technical and complex amendments to close up loopholes in the *Income Tax Act* with respect to foreign affiliates, among other things. These amendments apply primarily to structures that include partnerships. The proposed amendments would also amend the *Income Tax Act* to ensure that the base erosion rules governing foreign affiliates are not applied in unintended circumstances.

The Committee learned from the Department of Finance Canada officials that this amendment would tighten tax conditions significantly to target structures where Canadian corporations owned by non-resident corporations acquired shares of other foreign companies and borrowed money to do so to create an interest deduction in Canada.

Officials from Finance Canada also added that, since these rules were revealed in the 2012 federal budget, corporations subject to this part of the *Income Tax Act* have commented on the effect these measures will have, particularly in the mining sector.

In response to these comments, Part 1 provides a number of relieving changes that address the foreign affiliate dumping measures.

2.17 International Shipping Corporations (clauses 18, 71 and 74)

Part 1 would amend the *Income Tax Act* to ease the tax rules that apply to international shipping corporations. The proposed changes would allow the non-taxation of income from international shipping earned in Canada for certain non-resident taxpayers. This exemption would apply, among other things, on condition that the country in which the non-resident taxpayer resides for tax purposes grants substantially similar relief to persons resident in Canada.

It would also add the definition of "international shipping" to the *Income Tax Act*. This new definition would list the activities that are included, as well as those that are not. It would specify, among other

things, that a taxpayer or partnership who operates a ship he owns, or leases a ship whether directly or as part of a pooling arrangement, primarily for transporting passengers or goods, is engaging in international shipping under the *Income Tax Act*.

Part 1 would amend the *Income Tax Act* to allow investments in trusts or partnerships involved in international shipping; that is, investments that would allow an international shipping corporation to qualify for the non-taxation of income from international shipping.

These amendments would apply to taxation years beginning after 12 July 2013.

Officials from the Department of Finance Canada reminded the Committee that Canada has a policy that essentially exempts international shipping companies from tax if the country in which that company resides offers the same treatment to Canadian companies. They mentioned that this clause is part of the measures released in July 2013 to modernize the rules to better address structures involving partnership trusts and holding companies.

The Committee also heard from the President of the International Ship-Owners Alliance of Canada regarding this measure. During her statement, she mentioned that the proposed amendments in Part 1 would sharpen Canada's competitive edge and would make Canada a more attractive location for new international shipping companies. She also mentioned that the amendments proposed under Part 1 would provide greater certainty to these companies and would promote economic and employment growth in maritime sectors such as ship-brokering, marine insurance, ship finance and maritime legal services.

2.18 Taxation of Taxpayers Investing in Australian Trusts (clauses 22 and 91)

It is common for businesses to use trusts in certain foreign jurisdictions. For purposes of foreign investment by Canadian branches of foreign-based multi-national corporations, the *Income Tax Act* restricts such corporations from using their Canadian branches to invest in related foreign corporations through inter-corporate loans. These rules, which are known as the "foreign affiliate dumping" rules, generally deem interest on such loans to be dividends for tax purposes and subject to the withholding tax specified in Part XIII of the *Income Tax Act*.

When questioned by the Committee, officials from the Department of Finance Canada explained that Part 1 would amend the *Income Tax Act* so that an Australian-resident trust would be deemed a non-resident corporation for income tax purposes if a foreign affiliate of a Canadian-resident corporation has beneficial interest in the trust. As a consequence, the *Income Tax Act*'s rules preventing foreign affiliate dumping would apply to investments in the trust by the Canadian-resident corporation. Additionally, certain reporting requirements would be imposed on the Canadian-resident corporation regarding investments made in the trust.

According to officials, Part 1 proposes technical amendments relating to foreign affiliate corporations that were first released on 12 July 2013. In short, these amendments would better accommodate Australian commercial trusts subject to the foreign accrual property income rules. Under these amendments, Australian commercial trusts would be treated like corporations to ensure the foreign accrual property income rules work better for Canadian taxpayers who have investments in Australian commercial trusts.

2.19 Foreign Affiliate Dumping Rules (clauses 4, 67, 68, 69, 88 and 91)

The *Income Tax Act* restricts foreign-based multinational corporations from using their Canadian branches to invest in related foreign corporations through inter-corporate loans. These rules generally deem interest on such loans to be dividends for tax purposes and subject to the withholding tax specified in Part XIII of the Act.

In response to Committee members' questions, officials from the Department of Finance Canada explained that these amendments would tighten tax conditions significantly to target structures where Canadian corporations owned by non-resident corporations acquired shares of other foreign companies and borrowed money to do so to create an interest deduction in Canada.

They added that, since these rules were initially revealed in the 2012 federal budget, stakeholders have shared a number of comments on their impact. Further to these comments, Part 1 includes a number of relieving changes to the foreign affiliate dumping rules.

2.20 Definition of "Non-Qualifying Country" and the British Virgin Islands (clause 25)

The foreign accrual property income of a foreign affiliate includes the affiliate's income for the year from a non-qualifying business. A business is non-qualifying if it is carried on by the affiliate through a permanent establishment in a "non-qualifying country".

Part 1 would amend the definition of "non-qualifying country" of the *Income Tax Ac*t.

The proposed amendment would ensure that, after February 2014, a country or other jurisdiction would not be a non-qualifying country if the *Convention on Mutual Administrative Assistance in Tax Matters* is at that time in force and has effect for that country or jurisdiction. As a result of the amendment, a non-qualifying country would be a country or other jurisdiction that meets all the following conditions:

- Canada has neither a tax treaty nor has signed an agreement that will be a tax treaty with the country or other jurisdiction;
- the *Convention on Mutual Administrative Assistance in Tax Matters* is neither in force nor has effect for the country or other jurisdiction;
- Canada does not have a comprehensive tax information exchange agreement with the country or other jurisdiction; and
- Canada has, more than 60 months earlier, begun negotiations for a comprehensive tax information exchange agreement with the country or other jurisdiction, or sought to do so by written invitation.

Part 1 would also add an amendment to the *Income Tax Act* so that the British Virgin Islands is deemed to have a comprehensive tax information exchange agreement with Canada that is in force and has effect after 2013 and before 11 March 2014. As a result, it would not be a non-qualifying country during this period. An agreement between Canada and the British Virgin Islands came into force on 11 March 2014.

According to officials from the Department of Finance Canada, the British Virgin Islands entered into negotiations and did everything required to enter into a tax information exchange agreement with Canada. However, the five-year deadline expired before the agreement technically came into force. This proposed amendment would recognize that the British Virgin Islands took all the necessary steps and should not be subject to the foreign accrual property income treatment on active business income, which was intended to be a disincentive.

When questioned by Committee members, officials mentioned that this amendment would also recognize that Canada is now party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters*, and thus is able to exchange information with more countries.

2.21 Rules for the Canadian Film or Video Production Tax Credit Regime (clauses 41 and 70)

Part 1 would simplify the rules for calculating the Canadian Film or Video Production Tax Credit, which generally amounts to 25% of the qualified labour expenditures. The amendments would address productions whose development work began after 13 November 2003 and productions whose earliest labour expenditures were incurred after 2003.

Officials told the Committee that the Department of Finance Canada did not have a cost estimate for this measure for 2014, but that an estimate may have been calculated in 2003 when it was introduced. They committed to obtaining this information and sharing it with the Committee as soon as possible.

According to officials, the proposed amendments would also allow the Minister of Canadian Heritage to communicate or otherwise make available to the public certain confidential information related to film or video production certificates, such as the name of the production, the name of the certificate recipient, the name of the producers, the name of certain other individuals related to the production, and any revocation of the film or video production certificate.

2.22 Trust Loss Restriction Event Rules (clause 75)

The *Income Tax Act* prohibits a corporation or trust from using, for its own tax purposes, a loss or other tax attribute—such as a credit or deduction—of a corporation that it has acquired. Officials from the Department of Finance Canada said that these rules were introduced primarily to prevent taxpayers from buying loss corporations to use to offset their tax payable in relatively artificial structures. Furthermore, under the terms of the Act, the taxation year of the purchaser corporation is deemed to end immediately before the acquisition, thereby requiring it to file and pay its tax liability for the year.

Officials also indicated that the government had been informed by stakeholders in the investment sector that there could be frequent changes in the majority interest beneficiary, particularly during the start-up phase of a mutual fund or an investment fund trust. However, the rules were more targeting trusts that owned active businesses that were likely to generate large loss pools.

When questioned by members of the Committee, officials indicated that Part 1 would establish an exception for certain investment trusts. In particular, it would amend the loss restriction event rules so that a mutual fund trust would be given an exemption and would not be deemed to have a taxation year that ends before the acquisition of a corporation.

When invited to comment on the proposed amendments, the representatives from Ernst & Young and McMillan said that the amendments were positive and truly a step in the right direction. However, they said that the measures do not go far enough in exempting certain situations. In particular, the relief measures would not apply to pooled funds that are managed to comply with investment and restrictions under the *Pension Benefits Standards Act*, or similar restrictions under provincial laws on pension benefits.

2.23 Children's Fitness Tax Credit (clauses 32, 33, 39, 55, 59 and 89)

Officials from the Department of Finance Canada explained to the Committee that Part 1 would make changes to the non-refundable Children's Fitness Tax Credit, which currently has a $500 limit.

Officials indicated that this measure would increase the maximum amount that may be claimed from $500 to $1,000 for the 2014 taxation year, and that as of the 2015 taxation year the tax credit would be made refundable. It is worth noting that the credit will still be for 15% of eligible expenses.

When questioned by Committee members, officials said that approximately 1.4 million families currently benefit from this tax credit, at an annual cost to the federal government of approximately $115 million. Their numbers show that the proposed changes could benefit 850,000 families.

2.24 Withholding of Income Tax from Payments Made to Certain Individuals (clauses 78 and 91)

In response to questions from the Committee, officials from the Department of Finance Canada explained that Part 1 would make certain international organizations exempt from the regulation that requires employers to make salary deductions. This would include organizations such as the United Nations in respect of which income tax is not required to be withheld on payments made to certain employees. They added that this measure was first proposed in July 2013.

3 PART 2 – WOULD IMPLEMENT CERTAIN GOODS AND SERVICES TAX AND HARMONIZED SALES TAX (GST/HST) MEASURES PROPOSED IN THE 2014 BUDGET

As part of its study of Part 2, the Committee welcomed officials from the Department of Finance Canada. They spoke about the proposed measure and answered the questions from Committee members.

3.1 Goods and Services Tax/Harmonized Sales Tax Treatment of Pooled Registered Pension Plans (clauses 92, 93, 94, 97 and 99)

An employer that participates in a registered pension plan is required to account for the Goods and Services Tax and Harmonized Sales Tax (GST/HST) levied on taxable goods and services that it provides to a pension trust or corporation.

When invited to comment on the proposed amendments, officials from the Department of Finance Canada explained that Part 2 would clarify that the provisions of the *Excise Tax Act* that pertain to registered pension plans are also applicable to pooled registered pension plans. Pooled registered pension plans are multi-employer defined contribution pension plans that federally regulated employers can offer to their employees. Self-employed persons can also participate in a pooled registered pension plan for their own benefit.

3.2 Goods and Services Tax/Harmonized Sales Tax and Residential Housing (clauses 92 and 95)

When asked to comment on the proposed amendments, officials from the Department of Finance Canada confirmed that Part 2 would amend the definition of "substantial renovation" and "builder" to

correct anomalies and standardize the application of GST/HST to various types of residential housing. The proposed amendments would ensure that substantial renovations to a residential condominium unit would be treated in the same manner as substantial renovations to other types of housing, such as a house.

Furthermore, Part 2 would amend tax rules for subsidized housing so that, if the GST/HST rate payable by the builder is different from the tax rate applied to the input tax credits or rebates, the tax rates are deemed to be the same. A difference between the rates can occur if the GST/HST rate is lowered or if materials used in the construction of the housing were acquired from outside the province where the housing is located.

When asked by members of the Committee, officials said that Part 2 would also address an anomaly in the tax rules as regards community investment funds. Currently, community investment funds are subject to the self-supply rule for housing. According to this rule, the builder is required to pay GST/HST as if the building had been sold and re-purchased by the builder.

3.3 Goods and Services Tax/Harmonized Sales Tax Rebates (clause 96)

In response to Committee members' questions about the proposed amendment, officials from the Department of Finance Canada explained that Part 2 would introduce an amendment that is related to a particular GST/HST rebate. Its purpose is to clarify the provision and close a potential loophole. The officials mentioned that the loophole had been brought to their attention by the Canada Revenue Agency.

They gave an example of a non-profit organization, a health care organization that provides advanced care for seniors that also ran another type of apartment that offered fewer services. In this case, the apartments with fewer services were similar to apartments that someone else without a health condition could take, and these services are exempt under the GST, which means that the tax does not apply to the renter, and the landlord cannot claim tax credits on these inputs.

3.4 Goods and Services Tax/Harmonized Sales Tax and the Refining of Precious Metals for a Non-resident Person (clause 98)

Certain services provided to a non-resident person that are performed all or partially in Canada may be taxed at a rate of 0% for the purposes of GST/HST. An example is emergency repair services for railway cars.

When asked by the Committee, officials from the Department of Finance Canada explained that Part 2 would add a relieving provision so that services to refine precious metals supplied to non-residents of Canada who are not registered with the Canada Revenue Agency for GST/HST purposes would be taxed at a rate of 0%. Currently, pursuant to the *Non-Taxable Imported Goods (GST/HST) Regulations*, GST/HST does not apply to precious metals imported to Canada for the purpose of being refined.

4 PART 3 – WOULD MODIFY THE EXCISE ACT, 2001 (CLAUSES 100 AND 101)

As part of its study of Part 3, the Committee welcomed officials from the Department of Finance Canada. They informed the Committee that Part 3 would introduce a technical amendment in order to complement the legislative changes implemented in the first 2014 budget implementation bill, which received Royal Assent on 19 June 2014. They discussed the legislative changes made by the *Economic*

Action Plan 2014 Act, No. 1, the current rule and the proposed measure, as outlined below. Officials also responded to Committee members' questions regarding duty-free shops, the destruction and the re-working of tobacco products, as well as the fiscal impact of the proposed measure.

4.1 Previous Changes

The 2014 federal budget announced an adjustment of the excise duty rates on cigarettes in order to account for inflation since 2002. In particular, the excise duty on cigarettes was increased from $17.00 per carton of 200 cigarettes to $21.03 on 12 February 2014. Moreover, as a way of ensuring that the rate changes were applied in a consistent manner to all cigarettes, the 2014 federal budget announced the introduction of an inventory tax of $4.03 per carton of 200 cigarettes held at the end of 11 February 2014.

4.2 Current Rule

Under the current *Excise Act, 2001*, the Canada Revenue Agency has the authority to refund the excise duty imposed on tobacco products that are either destroyed or re-worked by a tobacco licensee, or imported cigarettes that are destroyed by a particular person. In order for refunds to be provided to recipients, they must meet certain timelines and other conditions. However, the Canada Revenue Agency does not currently have the authority to refund the inventory tax introduced in the 2014 federal budget.

4.3 Proposed Measure

Part 3 would further amend the *Excise Act, 2001* to allow the Canada Revenue Agency to refund the inventory tax on destroyed or re-worked cigarettes so that it is aligned with the existing refund of the excise duty. The proposed measure would be deemed to have come into force on 12 February 2014.

Through a provision that would come into force on 1 December 2019, an amended subsection 181(3) would provide that the refund given to a particular person who destroys imported cigarettes would occur in relation to taxed cigarettes other than those on which the special duty provided for in section 53 of the *Excise Act, 2001* has been imposed. This special duty is applied on imported manufactured tobacco that is delivered to a duty-free shop and is not stamped.

Part 3 would also add subsection 181.1(2) to provide a duty-free shop licensee with a refund of the inventory tax paid on imported cigarettes that it destroys; the licensee would have to meet certain timelines and other conditions in order to receive the refund. The provision would come into force on 1 December 2019.

4.4 Duty-Free Shops

In response to a question from a Committee member, officials from the Department of Finance Canada explained that a special duty is applied on imported cigarettes delivered to duty-free shops. The first 2014 budget implementation bill eliminated the preferential duty treatment of tobacco products available through duty-free shops by increasing the $15.00 rate per carton of 200 cigarettes to $21.03. Although no inventory tax on cigarettes held at duty-free shops was imposed for that increase, the Canada Revenue Agency will adjust all cigarette excise taxes to account for inflation starting in 2019. Moreover, in 2019, the Agency will apply an inventory tax to cigarettes held by duty-free shops.

4.5 Destruction and Re-Working of Tobacco Products

Some Committee members questioned the officials regarding the destruction and the re-working of tobacco products. Officials explained that there are various brands of cigarettes as well as premium and discount cigarettes. They said that companies may "re-work" one tobacco product into another tobacco product or destroy the product and use the tobacco for another product. However, in the event of the re-working of a tobacco product, the excise duty would again be imposed on that new product. The goal of the refund is to avoid imposing the duty more than once on tobacco products that are destroyed or re-worked.

In order to obtain a refund, the Canada Revenue Agency supervises the destruction of tobacco products and recipients must provide proof that the products were either destroyed or re-worked.

4.6 Fiscal Impact of the Proposed Measure

Officials indicated that the proposed measure would have no fiscal impact as it is a technical adjustment to ensure that the current refund provisions for the excise duty on tobacco products that are destroyed or re-worked also apply to the inventory tax.

5 PART 4 – WOULD AMEND SEVERAL ACTS TO IMPLEMENT VARIOUS MEASURES

5.1 Division 1: Intellectual Property (clauses 102 to 142)

During its study of Division 1 of Part 4, officials from Industry Canada and representatives from the Intellectual Property Institute of Canada appeared before the Committee. Officials discussed the House of Commons Standing Committee on Industry's report on Canada's Intellectual Property Regime and the federal government's response to that report. They also spoke about the Geneva Act of the Hague Agreement and the *Patent Law Treaty* and answered questions about industrial designs, applications in other languages under the *Patent Act* and whether or not there have been consultations with stakeholders about the proposed measures.

Representatives from the Intellectual Property Institute of Canada discussed three amendments regarding priority rights under the *Industrial Design Act,* as well as the reinstatement procedure and intervening rights under the *Patent Rules*.

5.1.1 House of Commons Standing Committee on Industry's Report on Canada's Intellectual Property Regime

Officials from Industry Canada told the Committee that in March 2013, the House of Commons Standing Committee on Industry published a report on Canada's intellectual property regime, in which it concluded that Canada's regime is strong while making several recommendations for improvements.

In response to one of the report's recommendations on strengthening the enforcement against counterfeit products, the government created Bill C-8, the Combatting Counterfeit Products Act, which has been referred to the Standing Senate Committee on Banking, Trade and Commerce for review.

The report also discussed the need to support Canadian businesses on the global stage and to ensure that the administration of Canada's intellectual property regime is internationally compatible and

streamlined. In particular, the House of Commons Standing Committee on Industry recommended that the federal government ratify key international intellectual property agreements, including the Geneva Act of the Hague Agreement dealing with industrial designs and the *Patent Law Treaty*.

5.1.2 Federal Government's Response

On 27 January 2014, the federal government tabled in Parliament five international treaties regarding intellectual property, each accompanied by an explanatory memorandum.[5]

A few days later, the 2014 federal budget proposed to "modernize Canada's intellectual property framework to better align it with international practices".[6] According to the government, the planned harmonization will help Canadian businesses gain access to international markets, lower costs and attract foreign investment to Canada "by reducing the regulatory burden and red tape faced by business".[7]

The *Economic Action Plan 2014 Act, No. 1*, amended the *Trade-marks Act* to integrate into Canadian domestic law the three international treaties – the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*, the *Singapore Treaty on the Law of Trademarks* and the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks* – concerning trademarks that were tabled in Parliament. The order in council to bring the trademarks provisions into force has not yet been published.

Division 1 of Part 4 seeks, among other things, to integrate into Canadian domestic law the other two international treaties: the Geneva Act of the Hague Agreement, and the *Patent Law Treaty*. Officials from Industry Canada explained that these two treaties strictly address administrative matters and are applicant friendly.

5.1.3 The Geneva Act of the Hague Agreement

The Geneva Act of the Hague Agreement is an international registration system that provides patentees the option of obtaining protection for industrial designs in several jurisdictions by filing a single application in one language with the World Intellectual Property Organization and by paying one fee. Officials argued that this system will lead to reduced costs, administrative burdens and risk of errors to patentees.

Division 1 of Part 4 would amend the *Industrial Design Act* to make it consistent with the Geneva Act of the Hague Agreement. The *Industrial Design Act* deals with the industrial design component of the

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5 The treaties are the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*, adopted at Madrid on 27 June 1989, amended on 3 October 2006 and 12 November 2007; the *Singapore Treaty on the Law of Trademarks*, adopted at Singapore on 27 March 2006; the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks*, adopted at Nice on 15 June 1957, revised at Stockholm on 14 July 1967 and at Geneva on 13 May 1977 and amended on 20 September 1979; the *Geneva Act (1999)* of the *Hague Agreement Concerning the International Registration on Industrial Designs*, adopted at Geneva on 2 July 1999 [the "Geneva Act of the Hague Agreement"]; and the *Patent Law Treaty*, adopted at Geneva on 1 June 2000.

6 Department of Finance Canada, *Economic Action Plan 2014 – The Road to Balance: Creating Jobs and Opportunities*, 11 February 2014, p. 108.

7 Ibid.

Canadian intellectual property regime. Industrial designs are distinctive product features that appeal to the eye.[8]

Among other measures, the proposed amendments to the *Industrial Design Act* would expand the authority of the Governor in Council to make regulations under the *Industrial Design Act*, including a new authority to implement the Geneva Act of the Hague Agreement, notwithstanding any other provisions in the *Industrial Design Act*. They would also amend the provisions relating to the contents of an application for the registration of a design by simplifying it, requests for priority and the term of an exclusive right for a design. This term would now consist of the 10-year period following the date of registration of the design or, if it ends later, the 15-year period following the filing date of the application.

5.1.3.1 Industrial Designs

In response to a question from a Committee member, officials indicated that an industrial design refers to an object with a particular shape such as a Nike shoe or a Coca-Cola bottle that are registered by companies with the Canadian Intellectual Property Office. As opposed to patent, they are not related to an invention.

The Committee learned that the Canadian Intellectual Property Office processes approximately 3,500 industrial designs applications annually. However, officials indicated that there should be a significant increase in applications in industrial design rights in Canada in the coming years as the proposed measures would allow companies to apply for protection for industrial designs in several jurisdictions at the same time.

Since the current system in place for industrial designs is a national system with international collaboration, there is an international database kept by the World Intellectual Property Organization that is searched by intellectual property offices when a new application is received in order to determine if the industrial design is already registered in another jurisdiction. In Canada, the Canadian Intellectual Property Office declines applications related to industrial designs already registered in other jurisdictions.

5.1.4 *Patent Law Treaty*

Division 1 of Part 4 would amend the *Patent Act* to make it consistent with the *Patent Law Treaty*. The *Patent Act* deals with the patents component of the Canadian intellectual property regime. Patents provide a legally protected exclusive right to an invention that prevents its manufacture, use or sale by unauthorized persons.[9]

Among other measures, the proposed amendments to the *Patent Act* would expand the authority of the Governor in Council to make rules or regulations governing certain aspects of the patent system, including the authority to implement the *Patent Law Treaty*. The *Patent Act* already provides that any rule or regulation made by the Governor in Council has the same force and effect as if it had been enacted in the *Patent Act*. They would also amend the requirements for obtaining a filing date for a patent application and requests for priority. In addition, they would add new provisions, such as those providing that applicants be sent a notice of the expiration of the deadline for meeting a requirement, those

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8 Government of Canada, Canadian Intellectual Property Office, *What are industrial designs?*.

9 Government of Canada, Canadian Intellectual Property Office, *What are patents?*.

concerning the reinstatement of a patent application and those ensuring the validity of a patent even if it was granted on the basis of an application that did not meet certain requirements.

Officials said that the World Intellectual Property Organization, which plays a mediator role for international treaties and shares best practices among countries, administers the *Patent Law Treaty* in order to simplify and harmonize administrative practices among the various national intellectual property offices. The Committee was told that the proposed measures would simplify filing requirements, reduce the risk of errors and lower the cost of filing applications under the *Patent Act*.

5.1.4.1 Applications in Other Languages than French and English

Officials indicated that Division 1 of Part 4 would modify the *Patent Act* so that applicants could submit their applications in a language other than the two Canadian official languages. However, applicants would be responsible for submitting a French or an English translation, as their application would not be completed without it.

5.1.5 Consultations with Stakeholders

Some Committee members asked officials whether or not the federal government consulted stakeholders before the proposed measures were presented. Officials replied that there have been targeted consultations on industrial designs and patents with stakeholders who are responsible for the patent registry, including patent agents and industrial design agents. They indicated that those stakeholders had positive comments regarding the proposed measures and also shared ideas on ways to improve the Canadian patent regime, which were at times integrated into that regime.

5.1.6 Intellectual Property Institute of Canada

Representatives from the Intellectual Property Institute of Canada told the Committee that they support the federal government's effort to improve Canada's intellectual property laws. In particular, they said that the proposed measures would facilitate and simplify the procedures of obtaining patents. They also mentioned that the integration of the Geneva Act of the Hague Agreement into Canadian domestic law would provide a streamlined and cost-effective mechanism for Canadian designers who wish to obtain international design rights.

They also discussed one issue with the proposed modifications to the *Industrial Design Act* related to the possible loss of priority rights and suggested expanding the definition of protectable design to include colour, animated electronic icons and graphical user interfaces. They also proposed two amendments to the *Patent Rules* related to the reinstatement procedure and intervening rights.

5.1.6.1 Priority Rights

Representatives from the Intellectual Property Institute of Canada told the Committee that the proposed clause 105, which would add a new section 8.2(1)(c), could lead to a loss of priority rights since it contains a first-to-file provision indicating that a design application having an earlier effective filing date would take priority over an application having a later effective filing date for any design disclosed in that earlier application. They expressed concerns that depending on how the new *Industrial Design Regulations* would be implemented, the application having the earlier effective or priority date could destroy the novelty of the second application having a later date. They indicated that such situations could not occur under the *Patent Act* as the equivalent provision is only for applications filed by someone

other than the applicant. As such, representatives suggested that the proposed new section 8.2(1)(c) only apply to designs filed by different applicants.

5.1.6.2 Reinstatement Procedure

Representatives from the Intellectual Property Institute of Canada argued that Division 1 of Part 1 would substantially change the reinstatement procedure of an application, which is the procedure followed to resubmit a patent application when a deadline is missed during the processing of the application. The reinstatement procedure would only be permitted upon determination by the Canadian Intellectual Property Office that the applicant's failure to take action "occurred in spite of the due care required by the circumstances having been taken" (clause 137). Moreover, the Canadian Intellectual Property Office's determination of due care would be subject to later review by the Federal Court.

They said that the circumstances in which the due care standard applies should be limited and therefore proposed amendments to the *Patent Rules* in order to provide a suitable opportunity for reinstatement of an application prior to any requirement to meet a due care standard.

5.1.6.3 Intervening Rights

The Committee heard that the proposed measures would introduce for the first time intervening rights, which relate to a third party who uses an invention during a period when the application or the patent is abandoned, thinking that no patent will issue or that the patent will not be revived, as the *Patent Law Treaty* does not mandate intervening rights. Representatives from the Intellectual Property Institute of Canada said that the terminology used in connection with infringing rights require judicial interpretation and that the circumstances in which they might occur are fact-dependent. They therefore recommended clarifying the circumstances in which intervening rights may arise in the *Patent Rules* as well as providing a sufficient period of time for the reinstatement of an application thereby reducing the possibility of intervening rights.

5.2 Division 8: Amendments to the *Royal Canadian Mint Act* (clause 185)

During its study of Division 8 of Part 4, officials from the Department of Finance Canada and representatives from the Royal Canadian Mint appeared before the Committee. During their testimony, they spoke about the proposed measure and explained its impacts on the federal public finances as well as on the Royal Canadian Mint. Finally, they discussed the revenues and profits of the organization.

5.2.1 Proposed Measure

The Royal Canadian Mint, which is a for-profit Crown corporation, was incorporated in 1969 under the *Royal Canadian Mint Act* "to mint coins in anticipation of profit and to carry out other related activities".[10] Division 8 of Part 4 would amend section 3 of the *Royal Canadian Mint Act* in order to eliminate the anticipation of profit by the Royal Canadian Mint with respect to the provision of goods and services to the federal government. Under the proposed amendment, the Royal Canadian Mint would no longer be entitled to earn a profit on Canadian circulation coins. In turn, the cost to the federal government for

[10] *Royal Canadian Mint Act*, R.S.C.1985, c. R-9.

circulation coins would be lower and the seigniorage[11] earned by the federal government would be increased.

Officials from the Department of Finance Canada told the Committee that the proposed measure relates to the circulation of coins and that the Royal Canadian Mint would have to provide coins at cost to the federal government, rather than making a profit on that service as has been the historical practice. Other goods and services delivered to the federal government, such as non-circulating coins, metals and consulting services would have to be provided at cost as well. However, the organization would continue to earn profit on its other business lines including coins produced for other countries. Officials said that the Royal Canadian Mint currently has contracts with approximately 45 different countries.

5.2.2 Fiscal Impact of the Proposed Measure

In response to a question from a Committee member, officials explained that the proposed measure would not provide direct savings to the federal government since the Royal Canadian Mint is a Crown corporation and therefore returns profits to the federal government. However, they indicated that there could be some savings associated with better planning in the future. They informed the Committee that the proposed measure is about transparency with respect to the actual costs of coins.

5.2.3 Impact of the Proposed Measure on the Royal Canadian Mint

Answering a question from a Committee member, representatives from the Royal Canadian Mint said that the proposed change would have very little impact on their employees and on the management of the corporation. They indicated that profits made on the provision of goods and services to the federal government represent approximately 25%, or $7 to $10 million after tax, of their total profits.

5.2.4 Revenues and Profits of the Royal Canadian Mint

Representatives from the Royal Canadian Mint told the Committee that their organization is self-financing and therefore does not receive any appropriations from the federal government. The organization has two facilities; one located in Ottawa and the other one in Winnipeg, and a total of 1,272 employees.

In response to a question from a Committee member, officials stated that the Royal Canadian Mint is considered a world leader in terms of introducing new technologies for the production of coins as well as new alloys that help manage the cost of coins. Officials explained that the Royal Canadian Mint's costs are largely related to materials including the purchasing of metals on international markets.

The Royal Canadian Mint's primary responsibility is the production of circulation coins for Canada for which it has an agreement with the Department of Finance Canada that lays out the coinage that will be produced as well as the services that will be provided. According representatives from the Royal Canadian Mint, the federal government paid $106 million for the production, management and delivery of Canadian circulation coins for fiscal year 2013-2014 and should pay $122 million for the current fiscal year.

The organization also operates three other business lines: numismatic and collectible coins; bullion, which relates to selling and reselling gold and silver, refinery and exchange traded receipts; and, foreign

[11] The "seigniorage" for Canadian circulation coins is generated at the time of their sale by the Royal Canadian Mint and represents the difference between the face value of a coin and the cost of production for that coin.

coinage, which relates to products and services provided to foreign central banks and mints. These three business lines generate approximately 85% of its revenues.

Officials said that, in 2013, the Royal Canadian Mint had $3.4 billion in revenues, $180 million in gross profit, an overall profit of $48 million, and an after tax profit of $36 million. They indicated that $10 million of the after tax profit went to the federal government as a dividend while the remaining $26 million was re-invested across all of its business lines including the domestic circulation business, which has traditionally been the organization's largest source of profit. However, the Committee learned that even prior to the proposed measure, the Royal Canadian Mint anticipated that its numismatic and collectible coins business line would become its largest source of profit over the next two to three years.

Lastly, representatives from the Royal Canadian Mint said that since 2008, their organization returned $135 million in dividends and corporate taxes to the federal government.

5.3 Division 13: Amendments to the *Northwest Territories Act* (clause 224)

Officials from the Privy Council Office appeared before the Committee to explain Division 13 of Part 4 and answer Committee members' questions about this proposed measure. They also discussed fixed elections in other jurisdictions.

5.3.1 Proposed Measure

Division 13 of Part 4 would amend the new *Northwest Territories Act*.[12] The proposed measure is intended to ensure that the election period for the first general election to take place under the *Northwest Territories Act* would not overlap with the election period for a federal general election. The new *Northwest Territories Act* maintains that an election has to take place within a maximum of every four years from the date of the return of the writs from the last general election, but provides no recourse in the case of an overlap with a federal general election.

Officials explained that in March 2014, the legislature of the Northwest Territories passed a motion asking the federal government to extend the maximum term between elections of the current legislation to five years. This would avoid a potential conflict between a fixed federal general election and a fixed Northwest Territories general election.

The proposed measure would provide that the period during which members of the Northwest Territories Legislative Assembly may continue in office as members may be extended until five years from the date fixed for the return of writs at the last general election under the older repealed version of the *Northwest Territories Act* should the territorial general election period overlap with that of a federal general election.[13]

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[12] Bill C-15, the Northwest Territories Devolution Act, received Royal Assent on 25 March 2014, and a number of its provisions came into force on 1 April 2014. This legislation gives effect to the *Northwest Territories Land and Resources Devolution Agreement* and streamlines the territory's regulatory regime in accordance with commitments set out in the federal government's 2010 *Action Plan to Improve Northern Regulatory Regimes*. Part 1 of the Act creates a new *Northwest Territories Act* and amends numerous pieces of federal and territorial legislation in order to implement the Devolution Agreement: *Northwest Territories Devolution Act* (S.C. 2014, c. 2). The Order in Council fixing 1 April 2014 as the day on which certain provisions came into force is SI/2014-0034, PC Number 2014-0305.

[13] Of note, the relevant provisions specify that the Commissioner may dissolve the Legislative Assembly before the maximum period is reached.

5.3.2 Fixed Election Practices in Other Jurisdictions

Officials told the Committee that the proposed measure is consistent with fixed election practices in other jurisdictions. These practices provide flexibility to provincial legislatures to move past four years for a general election in order to avoid conflict with a federal general election.

5.4 Division 14: Amendments to the *Employment Insurance Act* (clauses 225 and 226)

As part of its study of Division 14 of Part 4, the Committee heard from Employment and Social Development Canada officials and Canadian Federation of Independent Business representatives. They spoke about the proposed measure and answered questions from Committee members.

5.4.1 Proposed Measure

Division 14 of Part 4 would amend the *Employment Insurance Act* by introducing an employment insurance premium credit for small businesses that paid $15,000 or less in annual premiums in 2015 and 2016. This measure, announced on 11 September 2014,[14] would reduce the premium rate from 1.88% to 1.60% for these years. Since the employer's premium is 1.4 times the employee's premium (section 68 of the *Employment Insurance Act*), the employer's actual premium rate would decrease from 2.63% to 2.24%.[15]

This division would also amend the *Employment Insurance Act* so that no interest is payable on refunds owing under this new measure.

It would further amend the *Employment Insurance Act* so that decisions of the Employment Insurance Commission made under section 56 of the *Employment Insurance Regulations* respecting the write-off of any penalty owing, amount payable or interest accrued on these amounts are not subject to review.

The Employment and Social Development Canada officials who appeared before the Committee said that the Canada Revenue Agency would automatically calculate the reimbursement to which eligible businesses would be entitled.

In response to questions from Committee members about repayment to businesses eligible for the credit, officials said that employers outside of Quebec would be expected to have maximum earnings under $569,908.81 to be eligible. Approximately 780,000 of the 1.2 million companies in Canada, or two thirds, should be eligible for the credit.

When asked by the Committee about the amendment that would mean decisions of the Employment Insurance Commission would not be subject to review, officials explained that this amendment would align current provisions of the *Employment Insurance Act* with the federal government's long-standing view of this legislation, which is that the discretionary write-off decisions of the Employment Insurance Commission are not subject to appeal.

When invited by the Committee to comment on the proposed amendments, representatives from the Canadian Federation of Independent Business confirmed that they were very pleased with this proposed credit. However, according to the Canadian Federation of Independent Business, one of the primary concerns small businesses have about employment insurance is that their premiums are 1.4 times the

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14 Canada's Economic Action Plan, *Small Business Job Credit*.

15 Contribution rates are slightly lower for Quebec residents.

employee amount. The Canadian Federation of Independent Business proposed moving toward a one-to-one ratio so that employers and employees are paying equal employment insurance premium rates.

5.5 Division 19: Amendments to the *Department of Employment and Social Development Act* (clause 252)

During its study of Division 19 of Part 4, officials from Employment and Social Development Canada appeared before the Committee. During their testimony, they spoke about the creation of the Social Security Tribunal, the case-processing backlog as well as measures taken to address that backlog. Finally, they discussed the proposed measure and answered questions from Committee members.

5.5.1 Creation of the Social Security Tribunal

Officials from Employment and Social Development Canada reminded the Committee that the 2012 federal budget announced the creation of the Social Security Tribunal, which was created under the *Jobs and Growth Act, 2012* and became operational on 1 April 2013, in order to replace the four following tribunals: the Employment Insurance Board of Referees, the Employment Insurance Umpires, the Canada Pension Plan and Old Age Security Review Tribunals and the Pension Appeals Board. They indicated that the new tribunal, which is independent and reports directly to the Minister of Employment and Social Development, was created in order to provide an appeal process that is simplified, fair, credible and accessible to Canadians while achieving administrative efficiencies.

5.5.2 Case-processing Backlog

The Committee was informed that once the Social Security Tribunal was established all appeals that had already been submitted to the four previous tribunals were transferred to the new organization. However, the number of transferred appeals exceeded projections, especially cases concerning pensions at the first level of appeal. Furthermore, officials said that “the [Social Security Tribunal] is still in transition and has not yet achieved final stability”.[16]

In response to questions from a Committee member, officials stated that the volume of the first transfer was 9,082 cases – 321 cases from the Employment Insurance Board of Referees, 1,071 cases from the Employment Insurance Umpires, 7,224 cases from the Canada Pension Plan and Old Age Security Review Tribunals, and 466 cases from the Pension Appeals Board – while the current membership of the Social Security Tribunal is 73 full-time members and 21 recently appointed part-time members. However, on the first day of operations of the Social Security Tribunal, the membership was much lower as appointments and selections were not completed. Moreover, the Committee learned that backlogs already existed in the different tribunals before the establishment of the Social Security Tribunal.

The Committee was informed that the appointment of members of the Social Security Tribunal varies generally from two to five years.

5.5.3 Measures Taken to Address the Backlog

In order to reduce the case-processing backlog, the Social Security Tribunal has taken measures to improve its output, such as improving internal processes, accelerating the hiring of part-time members and support staff and creating a special unit in order to review transferred appeals.

[16] Benoît Long, Employment and Social Development Canada, *Evidence*, 5 November 2014.

Officials indicated that the efforts taken have reduced the backlog.

5.5.4 Proposed Measure

Subsection 45(1) of the *Department of Employment and Social Development Act* currently limits the number of full-time members on the Social Security Tribunal to a maximum of 74. Subsection 45(3) also restricts the number of hours part-time members may devote to their duties on the Social Security Tribunal according to the following formula: “the combined time devoted to their functions and duties [must] not exceed the combined time that would be devoted by 11 full-time members”.

The Social Security Tribunal case-processing backlog has been a matter of concern to Parliament.[17] Division 19 of Part 4 would amend the *Department of Employment and Social Development Act* to eliminate the limit on the number of part-time members of the Social Security Tribunal and to allow the appointment of part-time members by the Governor-in-council. In addition, it would repeal section 45(3) so that part-time members would no longer be limited in the number of hours they could devote to their Social Security Tribunal duties.

Officials stated that the current limits on the number of members inhibit their ability to reduce the backlog of transferred appeals in order to ensure that appellants receive a decision in a timely manner. They said that the proposed measure is a key action to reduce the case-processing backlog. However, in response to a question from a Committee member, they said that they do not know at this point how many full-time members would be added if the proposed measure is adopted.

5.6 Division 23: Amendments to the *Financial Administration Act* (clauses 304 and 305)

During its study of Division 23 of Part 4, officials from the Treasury Board of Canada Secretariat appeared before the Committee. During their testimony, they discussed the proposed measure and some exemptions.

5.6.1 Proposed Measures

Division 23 of part 4 would amend the *Financial Administration Act* by adding a new section related to “small amounts” owing to or payable by Her Majesty in right of Canada. The proposed amendment would authorize a Minister to neither pay, nor collect certain low-value amounts, except for amounts owed by Crown corporations to persons other than Her Majesty in right of Canada, amounts payable to Crown corporations by such persons, amounts owing or payable under the *Air Travellers Security Charge Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Income Tax Act* or the *Softwood Lumber Products Export Charge Act, 2006*, and amounts related to the public debt or to interest on the public debt.

In addition, under the proposed amendment the Treasury Board of Canada would have the authority to establish low-value thresholds and to specify circumstances for the accumulation or the exclusion of certain amounts.

In their testimony, Officials from the Treasury Board of Canada Secretariat explained to the Committee that the amendments to the *Financial Administration Act* would take precedence over some federal statutes in order to establish a consistent, government-wide authority over low-value amounts. However, existing statutes that include a similar regime for low-value amounts would not be subject to the

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17 See for example the House of Commons Debates, 2nd Session, 41st Parliament, 9 October 2014, 1750, 29 September 2014, 2050 and 16 June 2014, 1445.

proposed changes to the *Financial Administration Act*. For example, the *Income Tax Act* already includes a low-value threshold of $2 for payments either to or from the Minister of National Revenue.

5.6.2 Exemptions

The Committee learned that interest on Canada Savings Bonds or on any debt that Canada owes would be exempt under the proposed amendments, because not paying these amounts could be considered a default of payment on Canada's debt and could potentially affect its credit rating. Officials also explained that the proposed amendments would allow the Treasury Board of Canada to establish exemptions, for example, in situations where it could be perceived that a group of Canadians might be put at risk by not paying amounts below a certain threshold.

5.7 Division 25: Prothonotaries of the Federal Court (clauses 315 to 333)

As part of its study of Division 25 of Part 4, the Committee heard from Justice Canada officials regarding the proposed measure.

5.7.1 Proposed Measure

Division 25 of Part 4 of Bill C-43 would amend the *Judges Act* and the *Federal Courts Act* to implement the Government's Response to the Report of the Special Advisor on Federal Court Prothonotaries' Compensation.[18]

Justice Canada officials explained to the Committee that there are currently six prothonotaries, each appointed by the Governor in Council pursuant to the *Federal Courts Act*. Their salary is currently set at 69% of that of a Federal Court judge, and they are deemed to be public servants for the purposes of the *Public Service Superannuation Act*.

The Committee also learned that the salary of prothonotaries is excluded from the annual indexing process for judges' salaries, as it corresponds to a percentage of a salary that has already been indexed.

Further to the proposed changes, prothonotaries would receive an annual salary equal to 76% of that of a Federal Court judge, and they would be included in the *Judges Act* for the purposes of that Act's administration. Since the annual salary of a Federal Court judge is currently set at $300,800, the proposed amendment would bring the salary of a prothonotary up to approximately $228,600. Furthermore, in the future prothonotaries' compensation would be established by the Judicial Compensation and Benefits Commission, rather than by a separate process. The day-to-day administration of their compensation, as well as their travel and related expenses, would be assumed by the Office of the Commissioner for Federal Judicial Affairs.

If the proposed amendments come into effect, prothonotaries could choose to remain under the *Public Service Superannuation Act* and continue to accrue service and disability coverage as currently provided.

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[18] As judicial officers, prothonotaries enjoy the protections of the *Prince Edward Island Judges Case*, which established a requirement that the compensation of judges and judicial officers must be subject to periodic review by an "independent, objective and effective" commission: *Reference Re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3.

Complaints about prothonotaries' conduct would be dealt with under the established disciplinary processes administered by the Canadian Judicial Council.

When asked about the mandatory retirement age for prothonotaries, the Justice Canada officials said that it was 75, which is the same age as for other judges.

5.8 Division 30: Public Service Labour Relations (clauses 382 to 386)

As part of its study of Division 30 of Part 4, the Committee welcomed officials from the Treasury Board of Canada Secretariat to discuss the proposed measure.

5.8.1 Proposed Measure

Division 30 of Part 4 would make certain changes to the *Economic Action Plan 2013 Act, No. 2*, respecting public service labour relations.

It would amend the powers of the adjudicator in relation to matters referred to adjudication under the *Public Service Labour Relations Act*. It would also make certain changes and corrections to the complaint process for unsuccessful candidates in an advertised internal appointment process.

The proposed amendments would also extend the scope of section 83 of the *Public Service Employment Act*, which allows an individual to make a complaint where the Public Service Commission has made an appointment in implementing corrective action ordered by the Public Service Staffing Tribunal. This provision would no longer be limited to individuals who made a complaint or who were the subject of a proposed appointment under section 77 of the *Public Service Employment Act*.

When invited to comment on the proposed amendments, officials from the Treasury Board of Canada Secretariat explained to the Committee that the proposed amendments relate to recourse processes that public servants have under the *Public Service Labour Relations Act* and the *Public Service Employment Act*.

They confirmed that, for these two acts, the provisions regarding recourse were amended as part of the *Economic Action Plan 2013 Act, No. 2*, to streamline recourse processes and avoid duplications while maintaining the same level of employee rights in the existing legislation. According to the officials, these provisions have not yet come into force.

The amendments proposed in Division 30, currently under study, stem from these measures and are intended to clarify certain ambiguities. They do not affect the principles of the *Economic Action Plan 2013 Act, No. 2* in any way.

Officials also said that the proposed amendments would eliminate confusion about the important distinction in accountabilities between the Public Service Commission and departmental deputy heads. They would also ensure that an explicit remedy exists for one of the complaint processes that was introduced in the *Economic Action Plan 2013 Act, No. 2*.

In response to questions from the Committee, officials also mentioned that, by clarifying the grievance process under the *Public Service Labour Relations Act*, these amendments would give members of the Commission hearing grievances the irrefutable right, in their role as grievance arbitrators, to provide systemic remedies in disputed cases of discrimination.

5.9 Division 31: Royal Canadian Mounted Police Pension Plan (clauses 387 to 401)

During its study of Division 31 of Part 4, officials from the Treasury Board of Canada Secretariat appeared before the Committee. During their testimony, they spoke about the *Enhancing Royal Canadian Mounted Police Accountability Act*, the *Jobs and Growth Act, 2012*, and explained the proposed measures.

5.9.1 *Enhancing Royal Canadian Mounted Police Accountability Act*

Officials told the Committee that the under the *Enhancing Royal Canadian Mounted Police Accountability Act*, which received Royal Assent on 16 June 2013, the Treasury Board of Canada has the authority to deem certain Royal Canadian Mounted Police members as public service employees under the *Public Service Employment Act*.

They stated that there are two categories of employees in the Royal Canadian Mounted Police: members who do not hold rank, called civilian members, and regular members.

5.9.2 Jobs and Growth Act, 2012

Officials reminded the Committee that as a result of the *Jobs and Growth Act, 2012*, the *Public Service Superannuation Act* was amended in order to create two groups of Public Service Pension Plan members. Group 1 contributors are members who were part of the plan prior to 1 January 2013. They continue to be entitled to a retirement pension without penalty at age 60 with at least two years of pensionable service or at age 55 with at least 30 years of service. Group 2 contributors became public service pension plan members on or after 1 January 2013 and are entitled to a retirement pension without penalty at age 65 with at least two years of pensionable service or at age 60 with at least 30 years of service.

5.9.3 Proposed Measures

The Committee learned that the proposed measures would accommodate the transfer of Royal Canadian Mounted Police civilian members into the core public service without the loss of accrued pensionable services. Moreover, Royal Canadian Mounted Police civilian members would be entitled to a retirement pension without penalty at age 60 regardless of the date on which they became public service pension plan members. Officials indicated that there are approximately 4,000 Royal Canadian Mounted Police civilian members subject to the proposed measures.

The proposed measures would also provide the authority to charge the Royal Canadian Mounted Police pension account and credit the public service pension account for the amount required to cover the value of the accrued pension benefits by civilian members for pensionable services before 1 April 2000.

Officials informed the Committee that the Royal Canadian Mounted Police would no longer have the authority to hire civilian members. Civilian members would be considered public service employees and would therefore be hired by the Public Service Commission or by the Royal Canadian Mounted Police under the delegated authority of the Public Service Commission. This would be effective on the date that all civilian members would be deemed as public service employees. Consequently, Division 31 of Part 4 would repeal subsections 11(7) to (10) and (12) of the *Royal Canadian Mounted Police Superannuation Act*, which concerns the members of the Royal Canadian Mounted Police who do not hold rank in the Force. These subsections concern the payment of retirement benefits to these members in case of retirement due to disability and dismissal for misconduct, among other things.

Finally, Division 31 of Part 4 includes a transitional measure that would allow Royal Canadian Mounted Police officers and members who work for the Canadian Security Intelligence Service, pursuant to the 28 June 1984 version of the *Canadian Security Intelligence Service Act,*[19] and Royal Canadian Mounted Police members not holding a rank who retired before the published date[20] to remain part of the Royal Canadian Mounted Police and to benefit from the application of the repealed provisions of the *Royal Canadian Mounted Police Superannuation Act*.

Officials indicated that the proposed measures would come into force on the published date.

In response to a question from a Committee member, they explained that the proposed measure would ensure that Royal Canadian Mounted Police civilian members would be entitled to a retirement pension without penalty at age 60. Otherwise, they would be subject to the new provisions of the *Jobs and Growth Act, 2012* and would therefore have to wait until age 65, similar to public servants who became members of the Public Service Pension Plan after 1 January 2013, to be entitled to a retirement pension without penalty.

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19 The transitional provision refers to the previous version of the *Royal Canadian Mounted Police Superannuation Act* that existed before the day on which the transitional provision comes into force.

20 The "published date" is defined as the date on which the Treasury Board of Canada will have determined members who do not form part of any group of members and who will be deemed to be appointed under the *Public Service Employment Act*.

APPENDIX A: WITNESSES

Tuesday, 4 November 2014 (1420)

Department of Finance Canada:

Geoffrey Coke, Tax Policy Officer, Business Income Tax Division;

Miodrag Jovanovic, Director, Personal Income Tax;

Alexandra MacLean, Director, Tax Legislation, Tax Policy Branch;

Adam Martin, Tax Policy Officer, Excise Act;

Trevor McGowan, Senior Chief, International Inbound Investments;

Pierre Mercille, Senior Legislative Chief;

Kevin Shoom, Senior Chief, International Taxation and Special Projects.

Wednesday, 5 November 2014 (1350)

Department of Finance Canada:

Adam Martin, Tax Policy Officer, Excise Act;

François Masse, Chief, Labour Market, Employment and Learning;

Pierre Mercille, Senior Legislative Chief;

Elisha Ram, Director, Financial Markets Division, Financial Sector Policy Branch.

Canada Revenue Agency:

Ray Cuthbert, Director, Canada Pension Plan/Employment Insurance Rulings Division.

Privy Council Office:

Stephen Gagnon, Director of Operations, Provincial and Territorial Analysis.

Industry Canada:

Agnès Lajoie, Assistant Commissioner, Patent Branch, Canadian Intellectual Property Office;

Denis Martel, Director, Patent Policy Directorate;

Mesmin Pierre, Director, Copyright and Industrial Design Branch.

Employment and Social Development Canada:

Annette Ryan, Director General, Employment Insurance Policy, Skills and Employment Branch;

Helen Smiley, Director of Regulatory and Revenue Policy Design, Employment Insurance Policy.

Wednesday, 5 November 2014 (1845)

Treasury Board of Canada Secretariat:

Marc-André Audette, Director, Financial Management Sector;

Yvon Besner, Senior Legal Counsel, Legal Services;

Maureen Crocker, Senior Counsel;

Deborah Elder, Acting Director, Pensions and Benefits Sector;

Anthea English, Acting Assistant Comptroller General, Financial Management Sector;

Drew Heavens, Senior Director, Compensation and Labour Relations Sector;

Dominique Laporte, Executive Director, Pension, Policy and Programs, Pension and Benefits Sector.

Justice Canada:

Adair Crosby, Senior Counsel and Deputy Director, Judicial Affairs, Courts and Tribunal Policy;

Anna Dekker, Counsel, Judicial Affairs, Courts and Tribunal Policy.

Canada Revenue Agency:

Ray Cuthbert, Director, Canada Pension Plan/Employment Insurance Rulings Division.

Employment and Social Development Canada:

Eric Giguère, Director, Employment Insurance Appeals, Processing and Payment Services Branch;

Benoît Long, Senior Assistant Deputy Minister, Processing and Payments Services Branch, Service Canada;

Kei Moray, Director General, Policy, Appeals and Quality;

Annette Ryan, Director General, Employment Insurance Policy, Skills and Employment Branch;

Helen Smiley, Director of Regulatory and Revenue Policy Design, Employment Insurance Policy.

Department of Finance Canada:

François Masse, Chief, Labour Market, Employment and Learning.

Tuesday, 18 November 2014 (1417)

International Ship-Owners Alliance of Canada Inc.:

Kaity Arsoniadis-Stein, President and Secretary-General.

Enerkem:

Marie-Hélène Labrie, Senior Vice-President, Government Affairs and Communications.

PricewaterhouseCoopers:

Mike Shields, Partner, International Taxation Department.

Wednesday, 19 November 2014 (1347)

McMillan:

Michael Friedman, Partner.

Ernst & Young LLP:

Joseph Micallef, Partner.

Intellectual Property Institute of Canada:

Stephen Perry, Chair of the Industrial Designs Committee;

David Schwartz, President.

Rogan Investment Management:

Lindsay Rogan, Managing Director.

Portfolio Management Association of Canada:

Katie A. Walmsley, President.

Wednesday, 19 November 2014 (1831)

Department of Finance Canada:

The Honourable Joe Oliver, PC, MP, Minister of Finance;

Brian Ernewein, General Director, Tax Policy Branch;

Paul Rochon, Deputy Minister;

Rob Stewart, Assistant Deputy Minister, Financial Sector Policy Branch.

Thursday, 20 November 2014 (1355)

Royal Canadian Mint:

André Aubrey, Interim Vice President, Administration and Finance;

J. Marc Brûlé, Interim President and Chief Executive Officer;

Sean Byrne, Vice President, Operations;

Simon Kamel, Interim Vice President, Corporate and Legal Affairs and Corporate Secretary.

Canadian Federation of Independent Business:

Monique Moreau, Director, National Affairs.

APPENDIX B: BRIEF

Canadian Bar Association