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• (1520)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I call this meeting to order officially. Welcome to meeting number 25 of the House of Commons Standing Committee on Finance. Pursuant to the order of reference of February 3, 2021, the committee is meeting to study Bill C-208, an act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation).

Today's meeting is taking place in a hybrid format, pursuant to the House order of January 25, 2021, therefore members are attending in person in the room, and remotely using the Zoom application. The proceedings will be made available via the House of Commons website. I would like to remind members to turn off their mikes when they're not speaking.

With that, before we go to witnesses, Mr. Kelly, you have a quick point of order.

Mr. Pat Kelly (Calgary Rocky Ridge, CPC): I had even hoped to deal with it informally ahead of time, if we could have. I know we're behind now, so this may not be possible, but I had hoped—if we could get the brief opening statements from both panels and a full round of questions with some time to spare—that we might get to clause-by-clause today and thus be able to return this bill more quickly to the chamber.

I'll leave it with you, Mr. Chair, but that would be what I suggest we do on this bill in the name of expediency.

The Chair: I'll try to talk to the clerk while we're meeting, to see if it's possible to do that. I don't know if the logistics are together to do it.

With that we will turn to the first panel of witnesses. First we have Scott Ross, assistant executive director, Canadian Federation of Agriculture.

Scott, the floor is yours, and if you could hold it to about five minutes, that would be dandy.

Mr. Scott Ross (Assistant Executive Director, Canadian Federation of Agriculture): Thank you, Mr. Chair and committee members, for the opportunity to speak to you today.

My name is Scott Ross. I'm the assistant executive director of the Canadian Federation of Agriculture, Canada's largest general farm organization, representing nearly 200,000 Canadian farm families from coast to coast to coast.

I would like to start by thanking the committee for inviting farm organizations to speak to Bill C-208, as the continued facilitation of

farm family transfers is an issue of critical importance to the CFA and its members.

Agriculture is a capital-intensive business, and effective succession planning is critically important, particularly for a sector that will transfer tens of billions of dollars in assets to the next generation in this decade alone. It's undeniable that COVID-19 has fundamentally affected Canada's and the world's economic outlook, and while Canadian agriculture is certainly not immune to those effects, the sector is uniquely well positioned to drive Canada's economic recovery.

However, the average age of Canadian farmers now exceeds 55 years of age, and the opportunities these businesses face will carry into the next generation. As a sector where the vast majority of businesses remain family owned, maintaining the financial health of these businesses across generations is critical. This is in the interests of all Canadians, as studies show that family farming encourages sustainable growth, environmental stewardship and increased spending within one's local community, not to mention its contributions to the social fabric of rural Canada.

With respect to Bill C-208, I would begin by noting that I'm not a tax expert. However, in 2012, I convened and supported a taxation committee at CFA, comprising tax practitioners and farm leaders from across Canada, with a mandate to identify and review the most critical tax-related issues facing Canadian farmers.

Section 84.1 of the Income Tax Act and the disincentive it presents to family farm transfers—a primary focus of the proposed amendments under Bill C-208—was promptly identified as a priority by this committee and has been a focus of the CFA ever since. This was reiterated just two weeks ago when farm leaders from across Canada passed a resolution at the CFA's annual general meeting, imploring the federal government and members of Parliament to support and actively contribute to the passage of Bill C-208 before the next federal election, as a priority for Canadian farmers.

Simply put, the current wording of the Income Tax Act penalizes a farmer if they choose to transfer the farm business to a family member as opposed to an anonymous third party. As a result, when a retiring farmer sells their business to their children, they face the prospect of paying a lot more in taxes than if they were to sell to a stranger. This difference in treatment can amount to hundreds of thousands of dollars. This amounts to reduced productivity, increased financial risk and lost opportunities at a time when the sector holds such immense growth potential.

There are over 43,000 family farm corporations across Canada, operating on more than 50 million acres of land. The transfer of each one of these businesses, were they to stay in the family, would be disadvantaged and face this undue tax burden. The CFA supports Bill C-208 because it essentially ensures that real family farm transfers can access the same capital gains treatment as businesses selling to an unrelated party, rather than treating the difference as a dividend that's taxed at a higher rate and cannot access the lifetime capital gains exemption.

The CFA also supports the safeguards in Bill C-208 to prevent surplus stripping by assuring that a real transaction has taken place. For example, if the shares are sold by the child within five years of acquiring them, the transaction is deemed to have involved dividends and taxes will be charged retroactively. We are not seeking an exemption or preferential treatment for family farms, but instead are looking to ensure the Income Tax Act recognizes real intergenerational farm transfers and treats them accordingly.

In conclusion, I'd like to thank the committee for its time and reiterate that the CFA seeks your support for Bill C-208, as it addresses an undue tax disincentive to the continued vibrancy of family farming in Canada.

Thank you. I look forward to your questions.

• (1525)

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

We will turn to the Fédération de la relève agricole du Québec, with Julie Bissonnette, president, and Philippe Pagé, general director.

Go ahead, Ms. Bissonnette.

[*Translation*]

Ms. Julie Bissonnette (President, Fédération de la relève agricole du Québec): Good afternoon.

Mr. Chair and members of the committee, thank you for inviting us to speak to the committee about the transfer of farms.

My name is Julie Bissonnette. I am a dairy farmer in L'Avenir and the president of the Fédération de la relève agricole du Québec, or FRAQ. With me today is executive director Philippe Pagé, who grew up on a hog farm in Saint-Camille.

Before I turn to the subject at hand, I would like to tell you a little bit about the group I represent.

The FRAQ is an organization that brings together 16- to 39-year-olds who care about farming. With over 1,700 volunteer members

across Quebec, the FRAQ is affiliated with the Union des producteurs agricoles.

Our organization is dedicated to advocating for young farmers and achieving better conditions as they start out in farming, whether they are taking over an existing operation or starting a new one.

We are here today to stress the importance of immediately correcting the tax unfairness surrounding the transfer of a business, depending on whether the parties are related or unrelated.

The next generation of business owners has been speaking out about the problem for more than 15 years. Hopefully, this time, it will be fixed once and for all.

We realize the bill concerns all small businesses, but we would like to share the perspective of young farmers in Quebec. There's a problem that needs fixing: right now, it is harder for someone to sell their farm to their son or daughter than to a person outside the family. You should know that many young people in Canada are watching their dreams go up in smoke because of ill-conceived tax rules.

Under the current system, a person looking to sell their farm has two options: sell it to their son or daughter and agree to be taxed to the max or sell it to a stranger and receive better treatment under the Income Tax Act. Basically, a farmer will have to pay more tax if they sell their farm to their son or daughter, and as a result, fewer farms are being transferred to family members.

Naturally, the person looking to sell is going to choose the option that provides the most benefit. After all, the sale of a business is the culmination of a person's life's work. What is unfortunate is that the current provisions of the act force farmers to make the tough choice between keeping the farm in the family and having more money in retirement.

Bill C-208 would amend the Income Tax Act to allow a business owner selling the business to a related party to benefit from the same exemption they would receive when selling to a third party.

The FRAQ strongly supports the bill because it fixes the problem for good.

Bill C-208 is significant for young farmers because we believe it will encourage the transfer of farms to family members and go a long way towards correcting tax unfairness, while supporting a strong farming community.

The numbers speak for themselves. A business that is transferred to a family member is six times more likely to succeed than a business transferred to someone outside the family. What's more, 70% of all entrepreneurs in Quebec would prefer to keep their businesses in the family. Even today, selling a business to a related party is the preferred way to transfer a farm. Our tax system should support all young farmers, no matter their path to business ownership, something the system does not currently do.

With the average age of farmers increasingly nearing retirement age, a large number of farm businesses will be changing hands in the next few years. This is about more than just tax fairness. It's about support for farm growth and development across Canada and proper stewardship of our land. I hear from many young people that their parents are getting older and approaching retirement. Amending the Income Tax Act would change their lives. It is paramount that the government take action now because many farmers will be selling in the coming years.

Farmers are passionate and proud people. You can just imagine the pride and gratitude they feel when a family farm stays in the family. You can also imagine what it feels like when that doesn't happen. Losing a family farm is like giving up on a dream. All that hard work is for naught. That is the reality of the current system.

We urge government and opposition members to work together not only to correct this unfair tax treatment, but also to make the changes that good governance of the Income Tax Act calls for.

In conclusion, I want to reiterate our support for this bill, just as we have supported all of its previous iterations in recent years. Changing the law to treat family business transfers more fairly is a matter of consensus across all sectors.

Selling a business is riddled with challenges as it is; the process is long and complicated, and requires careful planning. Why make it even harder when it is a parent selling their farm to a son or daughter? Is the goal really to keep fewer farms in the family because of unfair tax rules?

Hopefully, young farmers and farm owners who wish to sell will finally be heard.

Thank you.

• (1530)

[*English*]

The Chair: Thank you very much.

We will turn to the Grain Growers of Canada, with Andre Harpe, chair, and Branden Leslie, manager.

Go ahead, Andre.

Mr. Andre Harpe (Chair, Grain Growers of Canada): Thank you very much, Mr. Chair and honourable members, for the opportunity to be here with you today.

My name is Andre Harpe and I am the chair of the Grain Growers of Canada. Grain Growers is the national voice for Canada's 65,000 grain, pulse and oil seed farmers across all of Canada. I farm in the Peace region of northern Alberta. When we finish harvest this fall, we will become a century farm, which represents one hundred years of our family farming this land. We grow malt barley, and canola is our mainstay. We also rotate other crops year to year.

My father incorporated this farm in 1972, before I took over the farm from him in the 1980s. Like many other farmers my age across the country, I'm beginning to look at the future of my farm. Succession planning is a challenge; it's expensive and must be done right.

I am also the proud father of three girls, and they all love the farm. I can't say for certain just yet, but I believe they are all interested in possibly taking over this farm one day. That decision will ultimately be up to them, but I would love to keep this farm in my family for another hundred years. Beyond that, I would be happy to see our sector benefit from fresh, new ideas for farming from young women like them.

There is an old saying that many farmers are cash poor and asset rich. Although the debt owed on my assets may not jive with the word "rich", the reality is that my farm is my retirement. The equity I've built through the years of hard work is my RRSP—it's my pension.

The structure of cash flow for a farm necessitates that you're turning profit back into the operations to pay down debt, purchase inputs and prepare for the following growing season. When I sell my farm to my daughters or somebody else, that's when I finally see the results of the years of hard work. Most business owners, farmers or otherwise, are in the same position, and we knew that going in.

I scratch my head to understand why, for even one second, I would have to consider whether or not I should sacrifice any part of my retirement in order to pass my farm on to my children. I should not have to weigh the decision between a lower quality of life in retirement due to significantly higher taxes to keep the farm in my family, and maximizing my retirement by selling it to a third party buyer. This isn't about special treatment; it's about fairness.

I've heard it mentioned that because we are incorporated, it must mean we're not a family farm. This couldn't be further from the truth. My farm is actually part of 97% of farms in Canada that are family farms. In my view, Bill C-208 would help it stay that way.

If my daughters choose to take over the farm, hopefully start families and stay on the land, it is also good for our local communities, which makes it good for Canada. The sustainability of our rural communities is vital, and levelling the playing field so that it is advantageous to sell it to a family member would help keep people on the land. It'll also help keep our schools, sports teams and communities alive.

There have been questions surrounding whether this bill would create tax loopholes that could be taken advantage of. The next panel will include many tax experts, so I will defer to them on the safeguards built into this legislation. What I know is that farmers often have to make decisions based on a risk-benefit analysis every day, just as you do in your roles. I would suggest that the risk of that being prevalent among farms as part of their succession plan, compared to the benefits for family farms in rural communities, is clear.

In closing, the Grain Growers of Canada are strongly in favour of this legislation, and we encourage parliamentarians to pass it into law in an expedited manner to ensure tax fairness for those currently deliberating this issue today. Not all farms are going to be transferred to the next generation, but for those that have the chance, Bill C-208 will go a long way to ensuring that farmers don't have to choose between keeping the farm in the family and getting the most out of retirement.

Thank you, Mr. Chair. I look forward to any questions you may have.

• (1535)

The Chair: Thank you, Mr. Harpe.

Turning to the last witness in this panel, we have the Union des producteurs agricoles, Marcel Groleau, general president, and Marc St-Roch, accounting and taxation coordinator.

Mr. Groleau.

[*Translation*]

Mr. Marcel Groleau (General President, Union des producteurs agricoles): Thank you, Mr. Chair.

Good afternoon, members of the committee.

My name is Marcel Groleau, and I am the general president of the Union des producteurs agricoles, or UPA. With me is Marc St-Roch, a specialist in agricultural taxation. He has the expertise to answer more technical questions.

The agriculture and agri-food sector is responsible for one in eight jobs, generating more than \$112 billion in annual revenues and exporting more than \$60 billion worth of products every year. The backbone of many rural areas, the sector is also vital to the food security of Canadians.

Some 98% of the country's farms are family owned and operated. That business model is a source of pride for Canadians. Family farming promotes sustainable growth, environmental stewardship and reinvestment in local economies.

The legal structure of farm operations has changed in recent years. According to the 2016 Census of Agriculture, the percentage of incorporated farms more than doubled in 20 years, going from 12% to 25%. As the number of farms dropped by approximately 83,000, the number of incorporated farm operations continued to grow in Canada, increasing from 32,700 to 48,600.

As has been pointed out, farmers are getting older: the average age of farm operators is now 55, seven and a half years older than the average age in 1991.

With rising asset values and, by extension, debt, farm operators have turned to incorporation to help finance investments, since corporate tax rates allow operators to pay back borrowed capital more quickly.

According to a 2017 study by the Business Development Bank of Canada, nearly 40% of small businesses will be transferred or sold by the end of 2022 as owners near retirement. More than \$50 billion in agricultural assets is expected to change hands in the next decade.

Unfortunately, Canada's tax system treats the transfer of family businesses unfairly. Under the current rules, it is usually much more expensive for a farm owner to sell their business to a family member than to an unrelated buyer. By penalizing retiring farmers and young farmers hoping to take over the business, the tax rules put the country's family farms in financial jeopardy.

Pursuant to section 84.1 of the Income Tax Act, if, in order to finance the sale of a business, a person sells the shares of their corporation to a related party, the capital gain triggered by the sale is deemed a taxable dividend. That means the seller cannot claim the capital gains deduction in relation to a qualified farm property. Conversely, if the owner sells the corporation to a corporation controlled by an unrelated third party, the capital gain realized can be tax-exempt. That is unfair. Consequently, on a \$500,000 gain, the taxable portion can vary by \$225,000 when it should be tax-free in both cases.

In order to facilitate financing in relation to the sale of a family corporation between related persons and to allow sellers to take advantage of the capital gains deduction, the Quebec government amended its Taxation Act to include an exception to the application of the provincial provision corresponding to section 84.1 of the federal legislation. The Canadian government should follow Quebec's lead.

Canada's Income Tax Act is out of step with the realities and demographic pressures facing family farms. The UPA believes that Bill C-208 would help level the playing field by eliminating the significant costs that put farm and small business owners at a disadvantage when they wish to sell the business to a family member.

In addition, disputes arise from time to time, and as a result, owners of multi-family farms prefer to operate their businesses separately. Section 55 of the Income Tax Act sets out a mechanism whereby the assets of an incorporated business can be shared among the shareholders tax-free as long as the assets are distributed in a proportional manner.

However, the proportional distribution of assets may not be possible. Assets like farmland cannot be separated. In order for the value of the assets to be distributed equally, a shareholder exiting the business may receive more money instead of a corporation asset. In that case, if the assets of the corporation are not distributed equally, they may become taxable in the form of a non-tax-exempt capital gain.

• (1540)

When the business is transferred between related parties, the requirement for proportional distribution does not apply and the cash payment may not be taxable. However, under section 55 of the Income Tax Act, siblings are deemed to be unrelated for the purposes of the section. As everyone knows, these types of businesses are usually divided among siblings, meaning that section 55 penalizes parties when assets cannot be split proportionally, because it triggers taxes. As a result, the viability of each owner's business is undermined.

The UPA is of the view that the amendment in Bill C-208 to exclude transactions between siblings from the application of section 55 would also be appropriate in cases where the cash and other assets transferred to a shareholder exiting the business are invested in another farm operation. That way, the assets would still be invested in farming despite being split among separate businesses.

In conclusion, farm operations could continue to grow. They often support more than one household and are increasingly being incorporated for tax reasons and estate planning. In this new landscape, good tax planning is crucial for family farmers if family farms are to remain viable for future generations.

Thank you.

[*English*]

The Chair: Thank you very much to all the witnesses.

Our question lineup starts with Mr. Falk, then Mr. Fraser, then Mr. Ste-Marie and Mr. Julian, if he's back. We may have to delay going to him.

We'll go to questions right now, and I'll go to your point following the questions to these witnesses, Mr. Kelly.

Mr. Clerk, do you know if we can get an extra half-hour so that we can keep these witnesses a little longer?

The Clerk of the Committee (Mr. Alexandre Roger): I've not had an answer from the services yet. They're looking into it.

The Chair: Okay, it's just because we were late starting.

Mr. Falk, the floor is yours.

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for presenting today and for helping Canadians better understand the bill that's before us here. I think it's an important bill, and it's something that I certainly support.

I'd like to ask the Grain Growers of Canada a few questions. I understand from Mr. Harpe's intervention that 97% of Canadian farms are family-owned and operated. That's a remarkable figure, and I think that's something worth celebrating.

Farm families face a variety of challenges when it comes to succeeding in their operations. Can you explain to the committee some of these challenges and describe how Bill C-208 can help keep businesses under family ownership?

• (1545)

Mr. Andre Harpe: Thank you very much.

I think one of the issues with farming in this day is that it always has been a complicated business but it has become even more so, quite often because of the inability to find qualified labour, just because of the technologies. I rely on my family to be able to run the equipment that we have, just because with the technology in tractors and combines right now and even with the cost and the expense of it, we can no longer just pull somebody off the street. There's a huge training process, and we are relying more and more on our farm families.

We're using our children as qualified labour, but the thing we're looking for now is to be able to pass on the farm, and that's the tough part about it.

Mr. Ted Falk: Thank you.

If your colleague Mr. Leslie wants to respond, I'm fine with that as well.

Often family farms are owned by mom and dad, who want to distribute it among their children. What are some of the dynamics that come into play when considering an intergenerational farm transfer?

Mr. Andre Harpe: I'll use my farm as an example. When I took over the farm, I had two sisters. Basically it goes back to how many of your children are going to want to farm. Quite often it might be all, and sometimes it might be just one. In my case, I was the only one who had an interest in the farm.

Basically we have to look at not only the child taking over the farm but how the other children are treated. There are issues like that, such as equality. It also goes back to the ability to manage a farm. Not just anybody can farm.

Branden, do you have anything to add to that?

Mr. Branden Leslie (Manager, Policy and Government Relations, Grain Growers of Canada): I was thinking, Mr. Falk, that's a good question in itself and that builds on some of the problems as to why this bill is so relevant. There are so many factors at play when it comes to succession planning and continuation of the family farm. I think it's fair to say it's an undue additional burden to have the consideration of whether or not you should take an additional loss on taxes just to do that. There are already enough considerations in the mix. I think this is a point of fairness that's very timely, as this question is expanding, as referenced earlier with the number of folks who are of an age where this is going to be something that's happening in the next 10 years.

It's a very timely piece of legislation in that sense.

Mr. Ted Falk: That's very good, thank you.

What is the risk of losing family farms in Canada if we don't remove the barrier of intergenerational transfers from a tax perspective?

Mr. Andre Harpe: I think the biggest issue we're looking at, as I alluded to in my remarks, is basically corporate farms. If we don't make it fair or equitable for you to pass your farm on to the children, all of a sudden you do get big farms, and all of a sudden you get real corporations running corporate farms.

When we talk about care for the environment and when we talk about climate change, a family farm looks after what we need to look after, because we want to pass that land on. What I would call a real corporate farm, I don't think they have the same incentive.

Mr. Ted Falk: Mr. Chair, do I have a minute left?

The Chair: You have a minute and a half.

Mr. Ted Falk: Thank you.

I think you've identified one of the problems with the big corporate farms. They're looking at returns and not always necessarily being good stewards of the land. Not that they're all like that, and I don't want to lump them all into one sum, but family farmers know they need to protect the land and the resources available to them for future generations. I think they have their eye on that part of the equation much more so than a big corporation. They're looking to generate profits for multiple shareholders.

You indicated in your intervention that your retirement plan is your RRSP and the equity you have in your farm. When you're going to consider selling your farm to one of your daughters, you're going to be looking at what's going to maximize your retirement return. If you sell it to the neighbour, he's going to provide you with probably the same amount of money that your daughters would feel it would be worth, except you're going to end up paying a bigger tax bill if you sell it to your daughters, unless we can pass this important piece of legislation. Have I accurately identified that concern?

• (1550)

Mr. Andre Harpe: Yes, that's correct.

Mr. Ted Falk: From what you're aware of in this legislation, do you see any hurdles that would prevent...a problem of a family farm transition?

Mr. Andre Harpe: No, having looked at the bill, I think the way it is written is good. Of course, the devil is always in the details, but right now it looks good, and we support it.

Mr. Ted Falk: That's good.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Falk.

Mr. Groleau, I might remind you they claim your mike is rubbing on your suit jacket. If you get some questions, hold it up so the interpreters don't have that problem.

Mr. Fraser.

Mr. Sean Fraser (Central Nova, Lib.): Thank you very much, Mr. Chair—

[*Translation*]

Mr. Marcel Groleau: It wasn't me. My mike was off.

[*English*]

Mr. Sean Fraser: I'm sorry. I think we were both speaking at the same time.

The Chair: Go ahead, Sean.

Mr. Sean Fraser: Thank you very much to our guests for joining us today. I really appreciate your insights on this.

Let me just start by saying that I do hope to find a fix to ensure that we can fairly pass on farming operations, and frankly certain other kinds of businesses, to the next generation.

I have a couple of concerns about Bill C-208. I'm interested in learning more about some of the things it doesn't do and some of the things it might do that we don't want. I will acknowledge that it could accomplish the facilitation of intergenerational transfers, which I think is a good thing.

My primary concern right now really dovetails with the conversation about corporate farms versus family farms. Although I deal with it at home, even though I do have a strong agricultural presence for Nova Scotia in my riding, it comes up more often in terms of the commercial fishery. I can't tell you how important this issue is. The rural communities that sort of dot the coastline that I represent are driven, really, by the lobster fishery. One of the troubling issues we have been trying to deal with over the past number of years deals with controlling agreements. In order to protect the in-shore fishery, what usually happens is that the owner of the licence will fish under that licence. It becomes a problem when certain larger corporate interests become the legal owner of a fishing vessel and associated licences, because they sometimes would be tempted to lease out the ability to fish on that licence. That has the risk of pulling the economic benefit from the rural communities, like the ones I represent, to the headquarters of the corporate entity that owns those licences.

One of the fears I have is that it could be an unintended consequence of Bill C-208 that it would encourage the adoption of corporate entities to own fishing vessels and licences, which would exacerbate this trend toward pulling the economic benefits out of communities. It's the same fear that you have expressed. I know right now that if you sell a business to a child personally rather than to a corporation owned by that child, you could benefit from, for example, the lifetime capital gains exemption.

For those unincorporated farms or fishing businesses, or frankly other businesses, do you think there are things we could do that would facilitate the transfer without putting at risk the controlling agreement circumstance? In a farming context, it would be like if a major grocer perhaps became the legal owner of the farm, rather than the person who has farmed it for generations.

If you have insight on unincorporated businesses and how we could make that simpler, I'd be very interested in hearing it.

The Chair: Who wants to take that?

Go ahead, Mr. St-Roch.

[*Translation*]

Mr. Marc St-Roch (Accounting and Taxation Coordinator, Research and Agricultural Policy Directorate, Union des producteurs agricoles): The problem actually has more to do with the financing of transactions than with the capital gains deduction in cases where businesses are owned by individuals.

For example, if the child wants to acquire the assets that are personally held by the parent, the child can finance the transaction and pay the debt using revenue from the business. The interest on the debt can be deducted for tax purposes.

Ultimately, the business's ability to repay is the bigger problem. If the parent decided to sell off all their assets one after the other, they would get a lot more than if they were to transfer the business to their child. As I believe Mr. Harpe pointed out, the farm's value during its operation is less than the value of the assets that can be sold. Parents tend to sell their farm to their children for a fraction of the price so they can afford a bit in the way of capital and live off of it. That's the dilemma.

Bill C-208 applies solely to the sale of incorporated operations. That's the problem. A stranger who wants to purchase the seller's shares will create their own company, and that company will then purchase the seller's shares. The company—or the buyer, in other words—will obtain their own financing and use the money to pay the seller. The company that was created becomes the owner of the shares of the just-purchased operation. Afterwards, the two companies are combined so the revenues from the just-purchased farm operation can be used to pay the debt. In short, a stranger can create a company, purchase the seller's shares, combine the new company and the just-purchased company, and finance the repayment of the purchase price through the operation of the just-purchased company.

If the seller's child wants to do the same thing, that is, create a company, purchase the parent's shares and combine the two companies in order to repay the debt using the revenues of the purchased company, the transaction is no longer deemed a sale subject to the capital gains tax exemption. Instead of a capital gain, the proceeds of the sale are treated as a taxable dividend where the parent is concerned.

For example, if the child wants to purchase their parent's \$500,000 in shares and finance the purchase through their company, the parent will have to pay \$225,000 in taxes because of the taxable dividend. Conversely, had the parent sold the company to a stranger, the capital gain would have been tax-free and allowed the parent to access a tax deduction. That's the problem with section 84.1 of the Income Tax Act.

• (1555)

[*English*]

Mr. Sean Fraser: Thank you.

Mr. Chair, do I have any time remaining?

The Chair: No, you don't.

Mr. Sean Fraser: I'll save it for the next round of witnesses.

Thank you.

The Chair: Okay, thank you.

We'll go to Mr. Ste-Marie.

We will extend this panel by about 15 minutes, because I know everybody is feeling rushed. We can go to 6:30 Ottawa time. We have that authority.

Mr. Ste-Marie, go ahead for six minutes.

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Thank you, Mr. Chair.

Good afternoon, everyone. Thank you for your very good presentations.

I am concerned about what will happen to this bill, given the current minority government environment. Mr. Maguire, a Conservative MP, originally introduced this bill in the last parliamentary session. Prior to the last general election, Mr. Guy Caron, an NDP MP, introduced a similar bill, as did my Bloc colleague M. Barsalou-Duval. A little before them, the Liberal MP M. Emmanuel Dubourg had done the same. Personally, I can't believe that the measures proposed in all these bills are not already in effect; they should have been implemented long ago. I now expect the bill to pass, but there seems to be a reluctance on the part of the Liberal Party, which forms the government.

As we know, the budget is scheduled for April, but there are rumours of a general election being held in the spring. If the government does not intend to implement this bill, it is possible that all of the committee's work will abort. So it would all start over, but it is unclear when.

Ms. Bissonnette, Mr. Groleau, or Mr. St-Roch, what are your arguments to convince the government, that is to say, the Liberal Party, to pass and implement this bill before the next election? Mr. Fraser has clearly indicated the kind of concern that his party has: it is afraid that the bill will be used by people for financial arrangements with the aim of lining their pockets.

If you are in agreement, I would like to hear Ms. Bissonnette's comments first and then Mr. Groleau's.

• (1600)

Ms. Julie Bissonnette: I will turn the floor over to Mr. Groleau or Mr. Pagé.

Mr. Marcel Groleau: The Quebec government has corrected the situation in its tax system without it becoming a loophole to financial arrangements to circumvent the tax law. So it is possible to do it, and it is advantageous. In fact, it does not confer an additional benefit on family farms; rather, it restores fairness to related party transactions as compared to unrelated party transactions.

While in opposition, all political parties took turns supporting similar legislation. So there is no reason not to pass the bill.

The devil is always in the details, but if we decide to apply the same conditions between related persons as between unrelated persons, there are mechanisms that can be introduced to prevent people from using schemes to circumvent the tax laws. This is entirely possible. In fact, that is what the Quebec government has done through its legislation. If in doubt, I invite you to look at the Quebec tax system for inspiration, to see how Quebec has corrected the situation.

I would even add that, by making inter-family transactions more difficult or more complicated, we end up favouring large corporations. This was the case in Quebec and it is the case everywhere else in Canada. It is important to understand that large investors have tax specialists who work exclusively for them and who develop financial packages. They go to farm families to explain how much more money they would have if they sold their farm to them, who would then go on to lease the farm to their children.

What we are doing is depriving the next generations of ownership of the land. When you don't own the land, you can't develop a long-term business on it or invest in ranching. You don't have the same interest, since it no longer belongs to you. We are turning the next generation of farmers into tenants rather than landowners. In my opinion, family transactions should be favoured.

Mr. Gabriel Ste-Marie: Thank you.

Does one of the representatives of the Fédération de la relève agricole du Québec want to add anything?

Mr. Philippe Pagé (General Director, Fédération de la relève agricole du Québec): Yes, I would certainly like to add something.

As you were saying at the outset, Mr. Ste-Marie, every political party present today has already introduced a similar bill. In addition, it is possible to have criteria to ensure that there is no abuse, because Quebec has put some in place. Also, in 2017, the Parliamentary Budget Officer evaluated the costs of these measures when Mr. Caron and M. Barsalou-Duval introduced similar bills. As a result, costs have been determined and studies have already been conducted. After four drafts introduced by all parties, I think we are ready to pass this bill into law as soon as possible.

Ms. Julie Bissonnette: I would like to add that beyond all of this, young people get in touch with me every time a bill on this subject is introduced. There is always hope that it will pass. Some farm transfers are postponed in the hope that this issue will be resolved. We are so close to the goal this time, we really need to resolve the situation. Already, a farm transfer is not an easy thing, on a human level. This tax law, by putting obstacles in the way, does nothing to help the agricultural sector. If we could at least get it resolved this year, a lot of people would be very happy that we could move on.

• (1605)

Mr. Gabriel Ste-Marie: Thank you.

[English]

The Chair: I'm sorry, Gabriel. We're going to have to leave you until the next two and a half minutes.

Mr. Julian, you're back. Go ahead, the floor is yours.

[Translation]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you very much, Mr. Chair.

Dear guests, thank you for being here today and for your testimony. We appreciate it. We hope that you and your family continue to be safe during this pandemic.

My first questions are for Ms. Bissonnette and Mr. Groleau.

We talk about the importance of getting this bill passed and ending the existing penalties for family farm transfers. As you so rightly said, it was Guy Caron, a former NDP MP, who introduced the first draft of this bill.

If you could see the next 15 years in a crystal ball, what would the situation look like in every community in Quebec and Canada, with respect to family farm transfers, if the bill were passed? Conversely, what would it look like if the bill were not passed?

Do you want to answer first, Ms. Bissonnette?

Ms. Julie Bissonnette: Mr. Pagé, do you want to answer?

Mr. Philippe Pagé: I can certainly respond.

The passage of such a bill will have direct effects on farm transfers. As Ms. Bissonnette mentioned, a business transfer does not happen in a month. It is a complex process that takes place over several years. Pitfalls can occur. Sometimes families have to put water in their wine to reach a common result. When combined with tax measures that disadvantage family farm owners who want to sell the business to a family member, some find it easier to dismantle their business or sell it to a neighbour who can then expand their own farm business. The end result is a decrease in the absolute number of farms. For rural communities in Quebec and Canada, this means fewer families operating businesses, consuming locally, and contributing to the economy of their community.

I would suggest to you that 10 or 15 years from now, if this inequity is not corrected, incorporated farm businesses will continue to struggle.

Mr. Peter Julian: Thank you.

What do you think, Mr. Groleau?

Mr. Marcel Groleau: As noted in the presentation, 40% of small family businesses will be transferred in the next few years, based on the average age of the owners. These businesses represent \$50 billion in assets.

Usually, when a farm business is transferred to the next generation, the tax savings realized by the transferors are shared between the transferors and the acquirers. This gives the family business an advantage by allowing it to reinvest in equipment and labour, for example. So better tax fairness would make these kinds of transactions easier and give the buyers a better foundation to grow the business and the sellers a better opportunity to retire. That's really important.

It is difficult to predict how many businesses, in absolute terms, will not be transferred. It is the role of parliamentarians to facilitate intergenerational transfers through Canadian tax laws. We also want to develop a generation of entrepreneurs in Canada. The Canadian economy functions thanks to small and medium-sized businesses. They create the most jobs in Canada, especially in rural areas. So we need to encourage those types of businesses.

At the same time, the value of agricultural assets is getting higher and higher. Think of the value of land and equipment, among other things. To facilitate the operation of farm businesses, tax law favours incorporation because it allows for better business planning and management. However, when it comes to business transfers, the law penalizes those that are incorporated.

So there is currently a form of incongruity between the tools that the law provides and the supports that are available afterwards, when it comes to transferring businesses. Most small and medium-sized businesses, often built by family, are transferred to other family members first, when possible. To me, that's really important.

It's the role of parliamentarians to correct the situation.

• (1610)

Mr. Peter Julian: Thank you very much.

[English]

The Chair: Peter, you have 30 seconds. We can leave your time until your next two and a half minutes and give you three.

We'll go to Mrs. Jansen for a five-minute round, followed by Ms. Koutrakis.

Mrs. Tamara Jansen (Cloverdale—Langley City, CPC): Thank you.

As a former farmer—although you never stop being a farmer—I do believe that family farm succession is one of the most pressing issues in the agriculture industry today. There are real people behind these things.

My husband and I had five kids, and they literally grow from the ground up learning the farm and how it works. My son was four years old when a sales guy came to the greenhouse, and he said to the sales guy, “What's all that junk in the back of your truck?” The sales guy was like, “Oh, man, I know this is going to be tough sale.” These kids learn this; this is part of who they are.

My son has now taken over the business, which is phenomenal, and he's very involved in the community. Recently, our local firemen did a big gala fundraiser for the hospital. I know even Elections Canada has talked to him about using one of the greenhouses for a polling station, so we must be coming to an election pretty soon.

My concern is that there is no level playing field for parents like ourselves to pass this on to our kids. I'm wondering if you could perhaps speak, Mr. Branden Leslie, about the impact that selling to foreigners has on our communities. What happens in a community when the farm leaves the family?

Mr. Branden Leslie: Thank you for the question. I think it's obviously a very good concern, and our chair, Andre, outlined it.

I should say that, according to the last census, that number is still relatively low, but I think it's kind of the point of this legislation to get ahead of that potential curve. As farms, by necessity, often have to become larger, we don't want to have any further impediments at play when it comes to the ability to pass down the family farm.

Anybody who lives in a rural community knows the value of any small business, whether it be farming or otherwise, when it comes to the contributions to local stores, the donations to local events, the volunteers and the local hockey tournaments. It really is part of the fabric of that way of life. I think such a simple change as this, which could help continue that vital aspect of rural economies across the country, seems like a simple solution, and the risk of potential problems with it is certainly outweighed by the clear benefits.

Mrs. Tamara Jansen: Yes, and what we found really saddening for us was that we were basically looked at as tax cheats, and that's why these rules were in place. They didn't want us taking assets and making them into a tax loophole. The idea that a tractor or a pickup truck was a tax loophole I found absolutely outrageous.

How do we make sure that farms do stay in the family without calling them tax cheats? Is this bill going to solve all of our problems?

That's for Mr. Leslie or...

Mr. Branden Leslie: Maybe I'll start and then hand it over to our chair, Andre.

No, this isn't a be-all and end-all. This impacts about a quarter of farms, and a growing number of them are incorporated, so it doesn't impact every aspect. There are a number of underlying issues as to why both the economics and the social aspects behind farms are changing.

I'll pass it over to Andre to see if he has any comments on how important that is and how it might be best addressed.

• (1615)

Mr. Andre Harpe: Thank you, Branden.

I think the big thing—and I've talked about it—is that this isn't a cure. This is not going to solve all our problems.

Number one, not every child wants to go farming or wants to continue with a greenhouse, so it's not going to stop all our issues. I think the biggest thing it's going to do is that it's going to make it equal, but the thing is, as I talked about before.... It's the old saying that we're cash-poor and asset-rich. At the same time, not everybody is going to be able to afford to pass it on to their kids, depending on what their debt load is and everything, because at some point, they actually may need all the cash they can get from what they've been growing with their farm.

Mrs. Tamara Jansen: Absolutely, yes.

Mr. Andre Harpe: That's where the issue is. I've seen examples where you may get \$250,000 more, say, on a \$2-million farm. You might get up to \$250,000 more by selling it to your neighbour rather than your kid. Or you might actually owe that money. It's not so much about "Do I make the choice of who I want to sell it to?" Unfortunately, your silent partner—the bank—might not give you the choice.

Mrs. Tamara Jansen: Can I have one more quick question?

The Chair: Yes, you can. Go ahead.

Mrs. Tamara Jansen: Thank you.

When a farmer has a child who is actually willing to take on the legacy of the family farm, you would think that we would be given a level playing field. Will this achieve that? Like you say, it's not easy to get them, but when you do, will this achieve what we're looking for?

Mr. Andre Harpe: From what I've read of this bill, I think this will do it. This will work. It will make life a lot easier. It gets back to.... The unfortunate thing is that any time we make a move financially, when it comes to federal government, one of the first people we phone is our accountant, to see what the tax laws are.

From what I've read of this bill, I think this will do it.

The Chair: Okay. Thanks, both of you.

We're turning to Ms. Koutrakis, who will be followed by Mr. Ste-Marie.

[*Translation*]

Ms. Annie Koutrakis (Vimy, Lib.): Thank you, Mr. Chair.

I thank all the witnesses for their testimony this afternoon on this important issue.

My questions will be directed to all the witnesses.

Are there currently ways in which a business owner can transfer the business to his or her child without having to pay tax on the dividends?

Mr. Marc St-Roch: In fact, the Income Tax Act allows a parent to give their shares to their children. When it comes to incorporated businesses, it is possible to give one's shares to one's child without a tax being applied to the transfer. In fact, the child gets the shares back as if he or she had always owned them. Of course, in a situation like this, there is no consideration for the parent; it is more like a gift. Regardless, it can be done tax-free in that context.

Ms. Annie Koutrakis: Mr. St-Roch, how many business owners do you think choose this option when selling?

How can we encourage more business owners to sell their businesses directly to family members and support them in doing so?

Mr. Marc St-Roch: As I mentioned earlier, owners have often invested all of their savings in their business. Therefore, when they want to transfer the farm to their children, they usually expect to get some capital back to cover their needs. I've seen many of these situations in my career, and I can tell you that the parents are not asking for the market value of the business; they want a reasonable amount of money to ensure their retirement. Often the amount of the transaction is chosen based on the ability to pay off the farm. Thus, sometimes a transaction is only 30% of the net asset value of the business, since that is the only reasonable amount the parents can get and their children can afford.

What we are talking about today is the situation where farms are incorporated. When parents want to transfer the farm to their children, it's hard enough to come up with an amount that will meet their needs, so imagine the situation when on top of that the parents have to pay tax because of section 84.1 of the Income Tax Act. In the end, it is the children who, by making larger drains on the company's cash flow, are left to pay the infamous taxes that the parents do not want to pay.

As Mr. Groleau said, this hurts the cash flow of businesses and weakens their financial position. They have to take on a little more debt or stretch the payments made to parents, in order to cover both the taxes and the needs of the parents who are retiring. This doubles the financial costs. On the other hand, if the children weren't buying the farm, we wouldn't have this problem.

• (1620)

[*English*]

The Chair: Please ask a very quick question, Annie.

[*Translation*]

Ms. Annie Koutrakis: Thank you, Mr. Chair.

I will ask one last question.

Would a parent be able to retain de jure and de facto control of a corporation whose shares are transferred under Bill C-208?

Mr. Marc St-Roch: At this time, yes, it is...

Mr. Philippe Pagé: Let me add something, Mr. St-Roch.

The Quebec government has criteria in place to avoid the situation you describe. It would be easy to apply such criteria.

Mr. Marc St-Roch: That's exactly what I was going to say. The Quebec government has formulated a series of criteria...

Ms. Annie Koutrakis: Could you send these criteria to our committee, so that we can review them? We would be very grateful.

Thank you.

[English]

The Chair: Yes, I was going to say the same thing. If you could send those criteria to us right away, it would be helpful.

We turn now to Mr. Ste-Marie, followed by Mr. Julian.

You have only two and a half minutes, Gabriel.

[Translation]

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

Let's hope that the bill is implemented as soon as possible, as the concerns raised are real.

I represent the riding of Joliette, where many municipalities make their living from agriculture. In many cases, businesses are transferred to children. As mentioned earlier, the parents then accept that they will have to pay more taxes and have smaller retirement incomes. In other cases, the businesses are simply sold to third parties.

I'd like to know how this is playing out on the ground and what is at stake. Without naming anyone, are you able to explain this reality to us in a more concrete way?

Ms. Julie Bissonnette: Thank you for the question.

The transfer of a farm is always an important step in the life of the transferor and the person taking over. A number of human aspects need to be considered. The training on farm transfers is all well and good, but each case is different. As the Grain Growers of Canada representative said, some businesses have more debt and others less. From the outset, the financial situation varies from one business to another.

We have been talking about retiring transferors. The weight of all the accumulated steps can be too heavy for them to carry and may end up discouraging them from going ahead with the transfer. The new generation can very well be extremely energetic and hard-working, but we are talking about the transferor in this case. Their business is their life, their passion, and their way of life. In the end, if all the steps accumulate and are added to the many other obstacles that already exist, the transferor could very well decide that they have simply had enough.

Canada cannot afford to lose farm businesses. As we know, farmers are important. The next generation is there, but it lacks means. Being a farmer is a whole way of life. Agriculture is part of the regional and economic vitality.

So the bill would remove a thorn from farmers' side. It would be a good step. It would remove a weight from the shoulders of transferors and successors, who could then focus on the human and administrative aspects of a farm transfer.

• (1625)

Mr. Gabriel Ste-Marie: Thank you.

Do I have time for another question, Mr. Chair?

[English]

The Chair: We're going a little longer, so we'll give you a very quick one, not a speech.

[Translation]

Mr. Gabriel Ste-Marie: Very good, thank you.

Mr. Groleau, I was astounded earlier when I heard you say that the current provisions encouraged the purchase of farmland by people who do not farm it.

Could you come back to this briefly, paint a quick picture of the situation and explain how the bill can help mitigate this phenomenon?

Mr. Marcel Groleau: In Quebec, the Commission de protection du territoire agricole provides data on this issue. All that is documented in municipal registries. We are seeing that an increasing number of transactions involving farmland are carried out by investors rather than by producers. This means that more and more land is concentrated in the hands of certain large investors. I want to specify that those are Quebec investors, and not foreign investors. Their interest lies in renting out the land while they wait to potentially do something else with it.

This is a global phenomenon. It is not exclusive to Quebec. In Canada, Saskatchewan even adopted legislation to limit the sale of land to investment funds or insurance funds. Land acquisition by hedge funds is a global issue. The legislation currently favours this.

[English]

The Chair: We'll have to end it there. That is another issue, and it's a huge issue.

Mr. Julian, you have about three minutes.

Mr. Peter Julian: Thanks very much, Mr. Chair.

I'd like to come back to Mr. Ross and to the Grain Growers of Canada on the same question.

Looking into a crystal ball and seeing 15 years from now, if we have this legislation in place, which stops the penalties for transferring family farms, or if we don't have this legislation in place, what do you perceive to be the difference?

I'll start with Mr. Ross.

Mr. Scott Ross: Thank you for the question.

I think maybe other witnesses have touched on elements of this, but I think we continue to see a rise in incorporation in farms for a variety of reasons, involving everything from tax planning to succession planning and other elements of that.

While there is a small percentage of farms in Canada that are currently not family-owned, we certainly appreciate the fact that family farming brings with it a whole suite of benefits for all of Canada, including the fact that was alluded to earlier wherein the retiring generation tends to extract the value they need for retirement but tries to put the farm in the next generation's hands in the best financial health possible.

For us, that's a critical element of this discussion. How do we situate the sector, based on family farming as it is today, for success into the next generation? I think there are a whole host of environmental and economic reasons why that is beneficial for all of Canada.

With these measures in place as they currently stand, we will continue to see pressure on family farms as they look to transfer into the next generation in what is already a very complicated process, having one more variable to contend with and pulling financial equity out of a sector that desperately needs it, as it is a very capital-intensive industry.

Mr. Peter Julian: Thank you for this.

I'll go to the Grain Growers of Canada.

Mr. Andre Harpe: Thank you very much.

It's interesting that Mr. Ross alluded to it as one variable in a set of variables, and I'd have to very much agree with that. I think what this bill would do is take one of the variables out of it.

I think if I were to look forward 15 years from now, I would be very worried about putting the "corporate" into corporate farms. Unfortunately, the bigger the farm, the less you're part of the farm. I guess it gets back to climate change and the environment now. I think we need to keep as many family farms in play as possible, because we have a real connection to what we do to this earth.

Mr. Peter Julian: You would see a significant difference 15 years from now if this legislation is not adopted.

Mr. Andre Harpe: I'd be very worried. It's really tough, but what I would see is bigger farms. The fact is, getting back to what I've talked about before, when it gets to a certain point, when you go to sell the farm, unfortunately you do have bills and mortgages to pay off. It could become a real factor, and unfortunately some of the bigger farms are getting much bigger.

• (1630)

The Chair: We will have to end it there.

We'll go to Mr. Kelly, followed by Mr. McLeod.

I'm sorry that I didn't give you a heads-up, Pat.

Mr. Pat Kelly: No problem, Mr. Chair.

I'm going to begin with just an observation. I know our panel of witnesses are all from agricultural stakeholder groups, and my riding is 100% urban—it's a city riding—but the issues really are no different with so many other types of small businesses. Much of this just translates straight across the board to the family restaurant, the family small manufacturing operation and all kinds of family operations.

With that, I'll turn to Mr. Harpe, who spoke quite a bit about the nature of being in business as a family and the extent to which one's entire life's financial plan toward a comfortable, secure retirement is tied up in the fortune of the business and in the family's capital in the business. A farmer, a restaurateur, a manufacturing operation proprietor or a fishing boat operator isn't generally best advised to take money and profit from the business and invest it outside of the business. Sometimes it's just not a possibility and sometimes it's not prudent.

Mr. Harpe, coming from the point of view of a family business operator—the business being a farm—I'd like you to give us this perspective on the extent to which the capital is always tied up in the business asset.

Mr. Andre Harpe: Thank you very much.

You make a wonderful point. Farming is not much different from owning a restaurant or owning a small manufacturing business. We're very much the same. It gets back to.... A small business is made, generally, from blood, sweat and tears. We put our labour into it, whether you call it our child, or whatever, but we're always trying to make something grow, especially on a farm. That's exactly what we're trying to do.

This is a perfect year to maybe talk about it a little bit, but if we talk about COVID and supply chain issues for agriculture, the costs of our inputs—our fertilizer, which we need to grow an efficient crop—have doubled this year. The cost of equipment due to the cost of manufacturing—and I'll throw in carbon taxes—has skyrocketed this year.

Basically, it gets back to when you have plans. They always say plan A, because you need more than one plan. It seems like we're always having to put money back into the farm and very rarely is there a chance to have a few extra hundred dollars that you can maybe try to invest in something else. It's very capital-intensive. We're always putting back into the farm. It also gets back to what I said in my opening remarks. It's our RRSP. It's our TFSA, or however you want to say it. This is what we count on for when we decide to retire.

The thing about farming—whether it's a restaurant or not, it's very similar—is that you could decide to retire at 55 because of health issues, or some people decide to continue on the farm into their eighties, so it's all over the place. That depends, then, on how much money you actually need to retire. It's huge.

Mr. Pat Kelly: There's one other point I also want to make or get into the record through witnesses.

There have been criticisms of the whole idea of a corporate entity. We know what's been said in the past and the accusations of tax cheating and that kind of thing. I'll leave this for whichever witness might be best able to answer this, but is it not correct that often the decision for a business to operate through a corporation is driven by pressures that are not really their choice? It could be their bank, for example. In any kind of commercial lending scenario, a bank will normally insist that the land or the building be held in a corporate entity, and often maybe even one separate from the operating entity, but they want both to be corporate structures.

This whole idea of small businesses, family businesses, forming corporations is often not the choice of the business owners themselves.

• (1635)

Mr. Andre Harpe: I'll speak quickly and maybe somebody else can add to it, but I do know that if you look at the business world right now and especially banks, they're very used to the corporate culture. They get very uncomfortable...or they operate a lot more easily when they're dealing with a corporation, whether it's a farmer—

Mr. Pat Kelly: Yes. They actually won't lend to some—

Mr. Andre Harpe: Yes, that's exactly it. They won't—

The Chair: I think Mr. Groleau wants in as well.

[Translation]

Mr. Marcel Groleau: I would like to answer Mr. Kelly's question.

First, the situation is a bit different in the agricultural sector because of the assets' value compared with the return on assets. In agriculture, the rule is that \$6 to \$7 must be invested to generate \$1 of income, while in commerce in general, it is \$1 of investment for \$1 of income. That is why there are special tax rules for the agricultural sector, including bigger capital gains exemptions for people selling businesses when they transfer their agricultural assets.

Second, banks do not require us to be incorporated. Legislation favours that type of legal structure because tax costs are lower for corporations than for individuals. This leads us to become incorporated or to create companies to run our businesses. Banks don't require this. It is a matter of good management.

[English]

The Chair: Okay, thank you.

Mr. McLeod, you get to wrap up this panel. The floor is yours.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chair.

Thank you to all our witnesses for a very interesting discussion on a very concerning issue.

I'm in the same boat as Pat Kelly; I don't have a whole lot of farms in my riding. We do have some hobby farms and some community gardens and things of that nature.

I have a number of questions. I think I'll start with Mr. Harpe. He made a very good presentation, but I'm not clear on some things he

said, maybe because of my lack of exposure to farming. He mentioned that his farm was a corporate farm, but it's not a real corporate farm. I can understand the difference between an unincorporated farm and an incorporated farm, but maybe he could explain to me what he meant. I think his farm is considered a corporate farm, but it's not the same as a real corporate farm. I didn't follow that.

Mr. Andre Harpe: Sorry, I apologize.

Yes, our farm was incorporated in 1972, when my father took over from my grandfather. We feel that the public perception is that when we talk about a corporate farm, we're talking about a corporation with shareholders, like IBM and businesses like that, that type of corporation. When we say "corporate farm", we mean... In Canada, it's usually a family farm that has made a business decision to become a corporation.

So yes, we are incorporated, but we consider ourselves a family farm.

Mr. Michael McLeod: You referred to the big farms getting bigger, which you were concerned about.

Is there a difference in definition?

Mr. Andre Harpe: Not that I know of.

• (1640)

Mr. Branden Leslie: Andre, if I may, I would just point to the 2016 census, which kind of delineated these situations and broke them down to show that just under 52% were sole proprietorships; just under 30% were partnerships; 22.5% were family, and 2.5% were non-family. We would be looking at that non-family section.

André would be a family corporation versus those. Those would be larger stakeholder-owned enterprises that own land and utilize it however they want.

Mr. Michael McLeod: I have another question, just for clarity. Mr. Harpe pointed to the fact that if he sold his farm to his children versus to an entity outside of the family, the difference could be \$100,000 or hundreds of thousands of dollars. The financial difference would be large. Would this bill change that fact? Would this change how much of a difference in money there would be in selling to his family versus selling to a company or selling to somebody else?

Would you be able to give me an example of what that means?

Mr. Andre Harpe: Actually, I'd defer to somebody else for a clear example, but at the same time Bill C-208 would level it, so basically the taxes would be the same with a neighbour versus one of my children.

The Chair: Does anybody—Mr. Leslie or somebody else—want to bring more clarity to that point?

Mr. St-Roch, go ahead.

[*Translation*]

Mr. Marc St-Roch: If owners sell their assets to a foreign entity that is not part of the family, they can claim a deduction for capital gains. Let's use an example where the sale price is \$1 million, which would not be taxable. That is what is currently happening. In the case of farms or, as Mr. Kelly was saying, small businesses that are sold to foreign companies, the asset sale gives the right to a capital gains exemption.

If owners sell their assets to a company that belongs to their children, there is no such exemption, and the difference becomes a taxable dividend. So \$1 million can mean they have to pay up to \$400,000 in taxes. Therefore, selling assets to their children is not beneficial. If the farmer wants to do that, either the seller pays the tax or his children to whom he is selling his assets must get the money through the company. So we are talking about another \$400,000 that will be taken from the farm operating revenues. Either the parent or the farm pays that \$400,000. Either way, the money must come from somewhere. In general, the farm must pay that tax. On the other hand, if the owner sells to a stranger, there is no such cost. That \$400,000 doesn't have to be paid. That is where the difference lies.

[*English*]

The Chair: We will have to end it there with this panel. The other panel is waiting.

I very much thank you, witnesses, for coming forward on this important bill. Thank you very much for your testimony and answering our questions today.

Pat Kelly, on the point you brought up at the beginning, I know there's a lot of push to go to clause-by-clause. We passed the deadline for committee members to propose amendments, but the letter just went out to independent members of the House this week—I believe it was yesterday—on whether they want to propose amendments.

We really do need to hear from officials. I'm sensing strong support for the principle of this bill, but are there any unintended consequences? We need to hear from officials, and we need to get it done as fast as possible.

I understand that the notices went out for Thursday's meeting. In the third hour we're dealing with COVID-19 spending and programs. I understand there's a problem scheduling one of the departments in. We talked about this the other day: the in camera meeting on the spending for COVID-19 contracts, etc. I understand there's one department we're having trouble scheduling witnesses in, from staff at the Department of Finance. However, they can schedule them all in for March 30. We can do an hour in camera then and do

Bill C-208 with officials and possibly get to clause-by-clause on Thursday, in that hour, if we want to make that trade.

Think about that while we're dealing with the next panel. I'm not going to pop it on you right now without giving you time to think about it. We'll try to find some time, in the last 10 minutes of the next panel, to come back to this topic.

Mr. Clerk, we will suspend for five minutes while you test the next witnesses.

Thanks, all of you.

- (1645) _____ (Pause) _____
- (1650)

The Chair: I will reconvene the meeting.

Welcome to meeting number 25 of the Standing Committee on Finance. As you know, the committee is studying Bill C-208.

Welcome to the witnesses in this panel. We appreciate your coming in on fairly short notice on an important private member's bill.

Just so panellists know, if the clerk hasn't told you, we're going to go until 6:30 Ottawa time. We've extended it by half an hour. We were able to squeeze out the time. We will need to stop probably five minutes before that, because we need to have a discussion as a committee.

We'll start with BDO Canada and Dustin Mansfield, chartered professional accountant.

Mr. Mansfield, if you're ready to roll, the floor is yours.

Mr. Dustin Mansfield (Chartered Professional Accountant, BDO Canada): Good afternoon, Mr. Chair and committee members. Thank you for the opportunity to speak to you today regarding the transition of family businesses in Canada.

My name is Dustin Mansfield. I'm a tax professional with BDO Canada, from Boissevain, a vibrant rural farming community in southwestern Manitoba. BDO Canada is a leading professional services firm in the Canadian market, providing tax services to Canadian private businesses and to the families and individuals who own these businesses.

My father and uncle ran a successful small business in Manitoba for about 49 years, and my grandfathers and uncle were also farmers for many decades. My grandfather's farm was in our family for 96 years before it was successfully sold to long-time neighbours, who are also successful multi-generational family farmers. I take pride in my career and the fact that I can help people like my father, my uncle or my grandfather transition their business to the next generation.

I will start by saying that there are many provisions that are helpful in assisting a tax-efficient transfer of these businesses. Bill C-208 seeks to adjust two specific provisions that can create problems in transitioning ownership of a family business to family members in a tax-efficient manner, often hampering the ability to allow continuing success of the business now and into the future.

The first section of the Income Tax Act that I will speak to is section 55. It is a complicated set of rules aimed at preventing avoidance that might be achieved through converting what would otherwise be a taxable capital gain to a tax-free intercorporate dividend. The proposed change is aimed at the fact that, for section 55, siblings are deemed to be unrelated for these purposes. It should be noted that they are still related for the other provisions of the act.

Because siblings are deemed to be unrelated, the ability to divide the business among them in a tax-efficient manner is extremely complicated and not always possible. The siblings must rely on what is called the pro rata butterfly exemption in paragraph 55(3)(b). This provision requires that, when splitting up a corporation, each shareholder must receive an equal pro rata share of each of the cash or near cash business and investment properties of a corporation. The purpose of the provision is to prevent a shareholder from cashing out without paying tax, with the other shareholder continuing to carry on the business. Because they must take equal shares of each asset type with the company being split up, the provision prevents this.

As a result of these requirements, section 55 prevents a disguised sale of a business on a tax-deferred basis. However, problems arise when there is a legitimate splitting of all asset types in the company among siblings but the asset mix that is to be divided between them does not fit squarely within the extremely strict requirements of paragraph 55(3)(b).

Bill C-208 proposes to allow siblings to be related for purposes of section 55, as they are for the other sections of the Income Tax Act, if the corporation split up among the siblings is a family farm corporation or a qualified small business corporation. These are both defined terms in the Income Tax Act that require all or substantially all of the assets of the company to be active farming or business assets. Therefore, since passive assets could not make up more than 10% of the value of the business, and due to the linking of the exemption to these statuses and the fact that the transaction would also have to follow the rules of the existing paragraph 55(3)(a), the integrity of section 55 should be protectable, allowing the business assets or farming assets of the small business to be split up more efficiently among siblings.

There have been comments opposing the change, to the effect that it may erode the tax base. The fact is, due to the punitive results of the rules in section 55, you either have a division that qualifies and is done on a tax-deferred basis, or one that does not qualify, in which case the transaction does not proceed. This is because the family has no liquidity to pay any taxes that would result from the transaction if it's fully taxable. If a successful split cannot happen, what can happen is that the business relationships among the siblings deteriorate, or it becomes difficult to transition the business to the next generation as the family tree grows.

The second section of consideration is section 84.1, which is in place most notably to prevent the use of a person's lifetime capital gains exemption to extract a corporate surplus on a tax-free basis when there is a related corporation used in the acquisition of the shares of that corporation.

In general, a parent can sell the shares of a corporate business to their child personally and use their capital gains exemption on the sale. To the extent the parent has an available exemption, they can receive the proceeds tax-free, but the child must repay the purchase price with personal funds. To fund the purchase, a child would usually have to receive salaries or dividends from the business to pay the personal taxes, and use the after-tax cash to pay their parent.

Alternatively, a parent could sell the business to an unrelated party that is incorporated and claim the capital gains exemption with the same result as the previous example. The difference is that the unrelated party can use corporate funds to repay the purchase price, and corporate level funds are, of course, subject to lower taxes, leaving more funds to repay the exiting shareholder.

• (1655)

In the end, the proposed change to the legislation would put a successor child of a business in the same shoes as an unrelated party upon the transition of the business. Why does a stranger receive better tax treatment than a child, when the purpose is to keep businesses within the family?

In closing, the "deemed unrelated" provisions of section 55 and the inability of a parent to utilize their capital gains exemption on a bona fide transfer of their business to the next generation are obstacles that hamper the transition of family businesses to family members. The proposed changes are designed to add more flexibility to the tax rules and allow for easier transition in these circumstances.

Thank you.

The Chair: Thank you very much, Mr. Mansfield, for explaining that in reasonable layman's terms. Tax policy is complicated.

We turn now to Mr. Kelly from the Canadian Federation of Independent Business. I believe we saw you just last week.

Go ahead, Dan.

Mr. Daniel Kelly (President and Chief Executive Officer, Canadian Federation of Independent Business): You can't get enough of me, can you? I'm sorry I missed you in our meeting yesterday, Wayne.

Chair and committee members, it's a pleasure to be back again. I'm really happy to present on this bill—a bill that CFIB strongly supports. As you can imagine, we are not tax policy experts in the way that an accounting firm would be, but certainly from a small business perspective, we have data to share that supports the spirit of this legislation.

I want to make sure I also say that while we're absolutely thrilled that Larry Maguire has put forward this bill, it's also built on the back of some earlier pieces of legislation from both the Liberal Party and the NDP. I think it is that all-party spirit that has us so optimistic that perhaps finally we may see this move across the finish line. I remember I joined Emmanuel Dubourg at a press conference a couple of years ago, when the Conservatives were in power, calling on the Tories to implement this legislation. That didn't happen. Then I joined with the NDP a few years ago, with Guy Caron, to suggest the very same thing. That didn't happen either. I'm really hoping that the third time is a charm and that we see Larry's bill get across the finish line.

I provided the committee with a bit of data from CFIB—as you might expect—on succession plans for small business owners, of which this is an integral part. Please note that 72% of business owners told us they were planning to exit their business within the next 10 years. That's a huge number of small businesses that are expected to change hands in the next little while. As the population ages, we know the clock is running out.

Probably next week, we're going to release some brand new data from CFIB that looks at this from a COVID lens. We have a bit of time here, because about 43% of our members have told us they are delaying their retirement as business owners due to the impact of COVID. Essentially, the value of their businesses has plummeted in many instances. As a result, they feel they may need to be involved in the business to try to get its value back up. About 5% of business owners have told us so far that COVID will cause them to speed up their retirement plans and exit their business—sell their business—more quickly. We shared with the committee last week that there are tens of thousands of businesses—180,000, in fact—that are expected to fail before the end of this.

Members of the committee, that's the part that I want you to remember. Canada needs these businesses to successfully transition from one generation to the next if we want the jobs, the economic development and the tax revenue that comes along with it. Most business owners—81% of our members—are telling us that the reason they want to exit their business is retirement.

One story that highlights this is of a farm member we visited. The son told us he was really happy that the dad finally shared with him the books of the business and was starting to talk about and prepare for succession. The son was 65. His father, in his eighties, was now preparing him to take over the family farm.

I know some of this has to do with things over which government has little control, but there are pieces of this that government is in control of and can smooth to make sure those business successions are as successful as possible. Far too few businesses operate with a proper formal succession plan. It is a concern for us. Tax policy plays a role in this. We want to make sure that the barrier to

transferring your business from one family member to the next is smooth.

Canada has an interest in this. I've spoken to thousands of business owners on succession planning over my 27 years with CFIB. One of the things I often hear, especially in rural Canada, is that they want to make sure their kids take over the business, because they have greater confidence that their kids are going to keep the business as a going concern in that community and that province than if they were to sell the business to a third party.

• (1700)

There's nothing wrong with selling your business to a third party. That is the primary outcome, as our data suggests, that many businesses are looking at. However, if we encourage that, one of the things I worry about is that the companies that buy these businesses may be buying them for their assets, their products or perhaps their client lists, and then are not worried about where the jobs are and where the headquarters of those businesses are.

For all small business owners, in agriculture and all other sectors of the small business population, we strongly urge the committee to do this as soon as possible. Seventy-eight percent of our members support the idea of ensuring that the transfer of a small business to the owner's children or grandchildren should be given the same tax treatment as the transfer to a third party.

In conclusion, on capital gains in general, we urge the committee to change the Income Tax Act along the lines of what's being suggested in this bill.

We'd love you to simplify it. We recommend further simplification of the lifetime capital gains exemption, LCGE, to include some assets. We'd also like to suggest that there is support for increasing the lifetime capital gains exemption to \$1 million for all small businesses. It's already there for farmers and fishers, but to have that extended to all business sectors would be a further recommendation from us.

Thank you so much.

The Chair: Thank you, Mr. Kelly.

Turning to the Conference for Advanced Life Underwriting, we have Cindy David, chair of the board, and Kevin Wark, tax advisor.

Ms. Cindy David (Chair of the Board, Conference for Advanced Life Underwriting): Thank you, Mr. Chair and committee members, for the opportunity to appear today.

In addition to being an independent financial advisor located in Vancouver, I'm chair of the board for the Conference for Advanced Life Underwriting, or CALU. CALU and our partner organization, Advocis, represent approximately 13,000 insurance and financial advisors who, in turn, provide advice to millions of Canadians and small businesses across the country.

We are of the opinion that Bill C-208 will have a positive impact for small business owners looking to transition their business to the next generation of family entrepreneurs. We have provided a brief to the committee that outlines the reasons CALU believes it's critical to amend section 84.1 of the Income Tax Act. I understand it's still in translation; you should be getting that by Friday.

Our brief highlights how recent tax changes have made the application of these rules to family business transfers even more punitive since the provision was first introduced. Once you get the brief, I draw your attention to pages 4 and 5 in particular, which provide examples. Our brief also outlines various methods the government could use to limit any potential tax abuses that might arise from relaxing the rules to section 84.1.

We believe there's some urgency around the need for the government to act in amending 84.1. I know all committee members are aware of the importance of small businesses to the Canadian economy, but I will highlight that small businesses employ 70% of the private sector and have been major contributors to employment growth over the past decade. A vast majority of those businesses have fewer than 20 employees. They play a significant role in supporting the economies of smaller communities across Canada.

We believe a recovery from the current economic crisis will once again be led by the growth of small businesses. It's not surprising that a number of owners who are at or nearing retirement age have been worn down by the stresses of the past year and are accelerating their plans to retire. Fortunately, many owners have children working in their businesses who have been groomed and are ready to assume control of the operations.

However, we're finding that section 84.1 remains the major impediment to a successful transition of these businesses within the family. This provision can deny the capital gains exemption that has been spoken about quite a lot. Alternatively, it can force new family owners to assume potentially high levels of debt to pay off the purchase price above and beyond what a third party would have to assume.

Accordingly, business owners are often faced with a difficult decision. They can sell their businesses outside of the family to preserve more after-tax proceeds to fund their own retirement, or they can receive less money from their children in order to pass on their businesses, so they can afford to pay the additional taxes that are currently required of them. We don't think it's fair. I've seen several examples of these impacts from my own personal experience with my clients.

To address these issues, CALU is urging the committee to support moving forward with the intent of Bill C-208, but we ask that you recommend that section 84.1 be amended to permit the transfer of incorporated small businesses to the next generation of family owners on a more tax-neutral basis.

This clearly fits within the recommendation made as a part of your pre-budget report to the Department of Finance, which was released in February. We strongly believe this action will facilitate the successful transfer of family businesses and, in turn, protect local jobs and local economies.

Thank you for your time and attention. I will be pleased to respond to any questions you have on this subject matter along with our CALU tax advisor, Kevin Wark, who is here with me today.

● (1705)

The Chair: Thank you for that presentation, Ms. David.

Turning to Deloitte, we have Mr. Janzen, senior tax manager.

The floor is yours, Brian.

Mr. Brian Janzen (Senior Tax Manager, Deloitte): Thank you.

Section 84.1 has been a thorn in my side for 25 to 30 years. I was pleased when I saw the Liberal bill in 2015—which did not get passed—and I'm just ecstatic to see what's transpiring so far. There was a brief example given in the earlier session, but I want to quickly highlight what would happen in Manitoba with and without section 84.1 on a sale to your kids versus a sale to arm's-length parties.

Right now, if you have a \$1-million business and you sell your shares—in a restaurant, let's say—to your neighbour, you will walk away with after-tax proceeds from a \$1-million sale of about \$971,000. That's only \$29,000 of leakage.

If you turn around and.... There are various ways to sell your shares to your kids under the current regime of section 84.1, but I'll just use the worst-case scenario. The worst-case scenario is that your kid sets up a holding company, or holdco, and buys your shares from you. In Manitoba, that will cost you \$466,000 because of the deemed dividend. That's a difference, between the two scenarios, of \$437,000. That's just crazy.

There are various other ways to reduce that difference, but there is always a difference when you sell the shares of a small business corporation. I'll just concentrate on the small business corporation during my discussion, because we've talked a lot about farms.

I understand why section 84.1 was introduced. It was introduced to stop internal surplus stripping when there wasn't a real third party sale or any kind of sale. That's totally understandable, but section 84.1 went too far, and Bill C-208 really goes a way to correcting that.

There are a couple of other things. As I said, it really encourages you to sell to a third party and not your kids. I've seen so many cases of that. I have current clients now, and even family members, who are looking at sales. They're pursuing the third party because it's too expensive to sell to their kids. An American company or a multinational is more attractive than their kids. As we've heard from CALU and from everybody, that is not the way to build a great economy.

On the first example I mentioned, where the person retains \$970,000 on a \$1-million sale, there's been a lot of commentary that it's a loophole and that it shouldn't be: Why should they pay that little? Well, small business people and farmers should be treated differently, because this person who sold their business for \$1 million probably had little or no RRSP. First of all, they probably took little salary out. That's their retirement. If they lose half of it to the government.... I don't lose half of my pension when I retire. This is their RRSP. This is why it's so important to retain as much as they can.

I have a couple of other quick comments. In the earlier session, there was commentary that corporations and holding companies are loopholes. Those are not loopholes. A corporation, as somebody was saying, is mostly required by the bank. Even in Manitoba, if you're a small business manufacturer, you need a corporation to take advantage of Manitoba's investment tax credits. A corporation is not a loophole.

The other thing I want to reiterate is that after the sale—let's say a dad sells to his kid and they paid more tax because of section 84.1—that kid is also left in a worse position on an ongoing basis. Depending on how they structured it, he now has to use his after-tax corporate profits to pay personal tax, or pay his dad off, as opposed to reinvesting. The third party who bought from your neighbour gets to reinvest his 90¢ on the dollar. The guy who bought from his dad does not. That puts him at a disadvantage on an ongoing basis as well.

• (1710)

This bill is a great start. It has some caps on value, which is great. This bill is helping the lower end of the small business community. It is not helping the huge, rich companies, even if they're family owned. The impact of section 84.1 on them is a drop in the bucket. This is helping the smaller families.

I didn't think I needed to get technical, because Dustin did a great job on that. These are my comments. As I said, I've worked with small businesses for 34 years, so this is a great help.

Thank you.

The Chair: Thank you, Mr. Janzen.

The last one on this panel is the Insurance Brokers Association of Canada. We have Robyn Young, president-elect; and Peter Braid, CEO.

Go ahead. The floor is yours.

• (1715)

Mr. Peter Braid (Chief Executive Officer, Insurance Brokers Association of Canada): That's excellent.

Thank you, Mr. Chair.

Please let me begin by thanking all committee members for their service to their constituents and communities during this past challenging year.

I am Peter Braid, CEO of the Insurance Brokers Association of Canada, also known as IBAC. Joining me today is IBAC's president-elect, Robyn Young. Robyn is also the president and CEO of Excel & Y, based in Calgary.

We are here today to provide our support for Bill C-208 on behalf of IBAC's 11 member associations and 38,000 insurance brokers.

Our member associations represent approximately 3,400 brokerage firms located in every riding across the country. Many committee members will know an insurance broker in their community, and have likely met with them during our annual Hill Day.

Insurance brokers work for their clients, not for insurance companies. They provide consumers with choice, advice and advocacy, while directly serving the best interests of their customers.

Insurance brokerages make an important contribution to the Canadian economy. Member brokerages are primarily small enterprises that employ between one and 15 people. They contribute \$5.4 billion to the national GDP, and are responsible for over 58,000 full-time jobs. Many of these businesses are family owned and operated.

In provinces such as Ontario, Quebec and British Columbia, up to 25% of member brokerages are family owned. In smaller provinces and more rural parts of Canada, this number is much higher. In Nova Scotia and Newfoundland and Labrador, for example, the number of family-owned brokerages is 40% and 50% respectively. The changes proposed in Bill C-208 would have a direct benefit for brokerage owners who want to keep the business in the family.

I will now turn it over to Robyn. In addition to serving as IBAC's president-elect, Robyn has experience purchasing and running a family-owned brokerage and will be able to speak to the importance of the intergenerational transfer of businesses.

Ms. Robyn Young (President-Elect, Insurance Brokers Association of Canada): Thank you, Peter.

Thank you to the committee members for the invitation to speak today.

I am here to speak in support of Bill C-208 because of my experience purchasing the family business from my parents.

When my parents decided to sell their business, they received an offer from a large direct writer. They ultimately chose to sell the business to me and my brother, because it was important to them to keep the business they had built within the family. They also wanted to ensure that their clients would continue to receive the same expert advice and personal touch they had come to expect.

Family-run brokerages are the pillars of the community and the lifeblood of the economy. They serve and support their communities in good times and bad by creating employment and donating time, money and other resources.

Many third parties purchasing family businesses are large companies with no connection to the community. Rather than supporting local organizations and sports programs, they tend to sponsor professional teams and events.

I sit on the board of a local children's charity, and our brokerage actively supports and volunteers for numerous community-based charities and children's sports teams.

Bill C-208 will not only support the family succession of brokerage firms and ensure stability for customers, but also help to maintain the social and economic contributions the insurance brokers provide to their communities.

In closing, this is an issue of equity and fairness. Business owners should not be penalized for selling their business to a family member. Tax implications should never be a consideration when making the decision to sell a business to a family member.

We should make every effort to support and encourage the intergenerational transfer of these businesses.

Thank you for your time.

The Chair: Thank you very much to you both.

The question lineup will start with Mrs. Jansen, then Ms. Dzewicz, Mr. Ste-Marie and Mr. Julian.

Before you start, Mrs. Jansen, I'll take the chairman's prerogative for a moment.

Mr. Janzen and Ms. David, you talked about section 84.1 of the act. We're working at a bit of a disadvantage here, Ms. David, in that because the submission isn't translated, we haven't seen it yet.

You said there needs to be an amendment. Are you suggesting there needs to be an amendment to Bill C-208, or is the amendment that's in Bill C-208 enough to cover your concern?

• (1720)

Ms. Cindy David: I'll pass the baton over to Kevin Wark to answer your question, if that's all right, Mr. Chair.

The Chair: Mr. Wark, go ahead.

Mr. Kevin Wark (Tax Advisor, Conference for Advanced Life Underwriting): We struck a committee in 2016 because of our members' concerns with section 84.1. We recognized at the time that 84.1 was an anti-avoidance rule. It's there for a specific purpose. If Finance was going to consider an amendment to that, to allow an exception for family business transfers, our members still

needed to be confident that the underlying purpose of 84.1 would be protected.

Fundamentally, we think there needs to be a change to 84.1, but we also think there's a need for some "guardrails" by this committee, or some limitations put in place. Our submission is based on the work that was done three or four years ago, making recommendations to Finance on how they could allow the exception but eliminate any potentially abusive planning transactions that otherwise should be caught by 84.1.

Bill C-208 has some of those guardrails already incorporated. We are supporting Bill C-208 as is, recognizing that Finance may still have some concerns with whether there are enough guardrails or not, and we assume they could, at some point in time, if they feel it's appropriate, amend the provisions to implement those additional guardrails.

We're very concerned that if Bill C-208 doesn't proceed, we'll be back here three years from now still debating this. We would like to see this provision go through. If it can be easily amended before it gets through, that's fine, but otherwise we think Finance always has the prerogative to amend legislation once it's in place to correct any problems that it perceives exist.

The Chair: Basically, you're suggesting Bill C-208 go as is and that Finance, as soon as possible, amend 84.1 to deal with the concerns you have.

Mr. Kevin Wark: Well, they are not our concerns, they would be Finance's concerns.

The Chair: Finance is always concerned.

Mrs. Jansen, you're next.

Mrs. Tamara Jansen: Thank you.

The small family businesses that this most impacts would be the ones least interested in having a discussion about this. Their eyes would roll back in their heads when you start talking about surplus drippings and 84.1. We need to get this right, because these are the people who are most impacted.

I would like to talk to Mr. Mansfield. I'm trying to work myself into a way that I can understand this. You're saying that section 55 currently makes siblings unrelated—that they're not related people—and because of section 55, assets need to be split between siblings.

I heard a story of a printing shop that was owned by a family, which passed it on to the kids in such a way that the warehouse went to one sibling and the printing machinery went to the other, basically tearing the company apart.

Is that actually how that works with section 55?

Mr. Dustin Mansfield: That is correct. You can imagine the joy I get sitting in a boardroom and telling two siblings that they are unrelated for the purposes of splitting up the business. They sometimes question, at that point, whether they should be talking to me or somebody else on the matter. For the purposes of section 55, siblings are deemed to be unrelated. There is a provision in one part of section 55, which is probably one of the most complicated sections in the act.

It is a big challenge from that standpoint, specifically in our area here in southwestern Manitoba. I think I heard on the previous panel a lot of discussion about the growth of corporate farms. I remember the 2016 census. I think they grew to be 22%, up from 11%, in the five years since the previous census. What we're now seeing is that a lot of those farms that were started by maybe a father and mother are now with those siblings. You have one, two or three siblings operating a farm together and you try to split that farm into two, because, of course, the longer you leave it, the bigger that family tree will grow and the more complicated the dynamics of the family relationships will be.

For purposes of following the provisions in paragraph 55(3)(b)... I have heard in arguments from the other side that they can still use that provision. There is a 1% tolerance on the asset types. As you can imagine, these parties are unrelated for the purposes of that section, but they're related for the purposes of determining the value. It becomes very complicated to actually make something fit the rules.

• (1725)

Mrs. Tamara Jansen: It's terribly complicated. Let me tell you, siblings definitely do not consider themselves unrelated when they've been working together in business. If you now look at section 84.1.... I understand that in that section family members are related. The reason we make them related there is that we're so worried that family members are just trying to game the system.

Can you share a story with us in which a family sold to a stranger because they couldn't afford the tax hit of selling to their child?

Mr. Dustin Mansfield: Sure. It definitely comes into play. Sometimes it's not even that the sale is to the third party; it's that it creates awkwardness in the family dynamic since often individuals will come in assuming that their capital gains exemption is on the table. They've operated their business for 25 years. They've grown it up. They've heard about the capital gains exemption over their career, and they come in and say, "Okay, I'm ready to sell to my child, realize my capital gains exemption, and retire," to which you tell them, "If you sell to your children, you cannot." If the children are in the room at the same time, it creates an awkward situation, because now you're pinning the family business and how it's treated against the mom and dad's exit from the business.

Mrs. Tamara Jansen: Right.

Mr. Dustin Mansfield: It can be in an actual situation, but also just create awkwardness in the dynamics of trying to do a proper transition.

Mrs. Tamara Jansen: Here we have section 55, in which they're unrelated, and section 84.1, in which they are related. Can you explain the incoherence of this? This makes absolutely no sense. These small businesses are not trying to game the system. They're small businesses that have huge impacts on our communities.

They're doing amazing things for our neighbourhoods, and we're going to call them tax cheats...? Is that the only purpose of this?

Mr. Dustin Mansfield: I think the provisions that are in place are there for anti-avoidance reasons. Obviously, there are many ways in many sections of the act in which anti-avoidance reasons exist. The section 55 one is an interesting one. Bill C-208 tries to tie it to the status of the shares themselves, which creates a protection from that level, which is positive.

You are exactly right. It creates an awkwardness when you're unrelated for these purposes but related for those purposes, so it just becomes very confusing in an already confusing situation.

Mrs. Tamara Jansen: I understand that if the transition takes place over many years, there are some workarounds, but with many small businesses there's a sudden death or injury or something that takes the parents out all of a sudden. In such a case, what happens now?

Mr. Dustin Mansfield: I think in that type of scenario, if mom and dad pass away and the kids decide to carry on the business, on their passing a deemed disposition of their assets at the last will of mom and dad, depending on the will, happens.

If a capital gains exemption is claimed on their passing, then those shares wouldn't be able to be transferred to a corporation; at least that capital gains-exempt value could not be used. Therefore, you're into the same scenario, in which you sometimes take on personal level debt to pay out the other siblings. There may be other siblings in the estate who aren't taking over the business.

The terms of section 84.1 are always a very big area of concern for us as practitioners, but also for clients—sometimes not even with regard to the use of the exemption, but just with regard to the specific sale itself, as Brian alluded to earlier.

Mrs. Tamara Jansen: Bill C-208 would just level the playing field, is what you're saying.

Mr. Dustin Mansfield: Bill C-208 would work to level the playing field in that situation.

The Chair: Okay, we will have to move on.

I might say this to the other witnesses: If you do have a point that you want to raise on a question but it wasn't directed to you, just raise your hand, and hopefully I will see it.

Ms. Dzerowicz has six minutes, followed by Mr. Ste-Marie.

Ms. Julie Dzerowicz (Davenport, Lib.): Thank you so much, Mr. Chair.

I just want to thank everyone for their excellent presentations—particularly you, Mr. Mansfield. I think this was the closest that I could actually understand in layperson's terms exactly what we're talking about today, even though you should know I am the daughter of a farmer. However, I am a downtown Torontonion, born and bred, so I cannot pretend that I know the workings of anything to do with transfers.

I will tell you my bias. I really would love to find a way for these intergenerational transfers to happen in a fair and more affordable way.

My questions are directed in terms of how there must be some reason why this has come before the House of Commons as a private member's bill three or four times but has not passed. I'd like to start trying to figure out how we can address some of those roadblocks.

Mr. Wark, I'm going to start with you and just continue along the lines of what the chair was asking you previously, where you indicated that there were probably some concerns within Finance in terms of guardrails and limitations. Do you have any specific recommendations about what additional guardrails we can put into place that might actually strengthen this bill and address Finance's considerations?

• (1730)

Mr. Kevin Wark: Well, I think one concern that has been raised relates to future sales of the entity and whether it could revert back to the original owner. There may be some structuring that could go on that would allow the company to move back in one form or another. I think that's an area that could be looked at and could be easily fixed, and I think it could be done after the fact as much as before the fact.

I'm not sure how many of you recall this, but when this bill was introduced by Guy Caron in 2016-17, when it was being debated in the House, projections were put forward that the cost of implementing this bill would be in the range of a billion dollars. I think that caused reflection by a number of members in terms of whether the bill should proceed or not. However, the PBO's office came out afterwards, and the number was significantly lower than that. They also assumed that the sale would not otherwise take place to an arm's-length purchaser; they just said that if all these businesses were ultimately sold to family members, there is a kind of tax loss.

I think we've come a long way in terms of understanding the impact of this bill and understanding the value of making this change. The group here, I think, all have the same perspective that there should be changes, that it's a question of how to best effect them.

Again, the concern we have is, if this bill doesn't proceed, how much longer will it take for it to get back in front of this group again? In the meantime, it creates significant uncertainty for small business owners doing their planning, and Dustin mentioned that it's not only dislocative to the sale process but also to the family.

We heard similar stories where people were unaware when they started their planning and started to move the family business on to the next generation that they cannot structure it in a way that's tax-effective. It is very dislocative to a whole company, because all of a sudden the parents start needing to contemplate whether a sale should take place to a third party, which should not have to take place.

Ms. Julie Dzerowicz: Thank you. Those, I think, are two important points.

I don't know if Mr. Mansfield and Mr. Janzen have something to add. Would you agree that those have been two sorts of roadblocks in the past?

I appreciate what you've indicated, Mr. Wark. Are there any other roadblocks or is there anything else you think we should be identifying so that we can try to find a way to move forward? Does anybody want to respond to that?

Mr. Dustin Mansfield: Sure, I can quickly respond on that.

I did have my mom and dad and my wife read my statement to help with that part, as my wife tries to explain dentistry to me from time to time and I don't understand it either.

To back up Kevin's comments, I think I've read between the lines on some of the comments from the party members in terms of whether the parents can sell the shares of the purchaser corporation back to the parents—because the provision currently includes a restriction of five years where the shares of the corporation itself are sold. However, what I thought was quite interesting—and I do give a lot of credit to the individuals who went down the road with this bill, because interpreting and writing tax legislation is not easy—is that it does have a lot of guardrails.

I think what Mr. Wark has brought up are certainly some of the concerns that I would assume Finance would have, just from my experience in the career. However, I don't think they're impassable. I think there are pieces that could be added to make this thing work for the purposes of use and practice.

• (1735)

The Chair: Julie, this is your last question.

Ms. Julie Dzerowicz: Thank you.

The last question is for Mr. Kelly.

Mr. Kelly, you have recommended simplifying the LCGE and expanding it to include at least some of the assets and increase the LCGE amount to \$1 million. Are you proposing that as additional changes to strengthen Bill C-208, or are you indicating that's something we should be considering moving forward?

Mr. Daniel Kelly: I would not suggest that we delay this piece of legislation. To the points that were raised earlier by Mr. Wark, we need to see some movement on this. We've been waiting. We've been hoping that a government and opposition parties would align to make this happen, and perhaps this is our moment in a minority Parliament to do just that.

I don't suggest that we delay it. Those are further recommendations, though, and things we hear an awful lot from business owners.

On the previous point that was raised, I understand that officials in the Department of Finance have a difficult job to do. They need to make sure that they do not create scenarios for tax cheating and that they are also fiscal stewards of the national treasury. However, we've seen this movie before. Often in the Department of Finance, anything that is regarded as a tax expenditure, like specific measures to support small and medium-sized firms, is met with a fair degree of skepticism. To discourage parliamentarians from moving on them, they often vastly overestimate the amount of potential revenue loss that will happen, and I suspect that's what has happened in the past here.

Ms. Julie Dzerowicz: Thank you so much.

The Chair: Thank you all.

We'll turn to Mr. Ste-Marie, followed by Mr. Julian and then Mr. Falk.

Mr. Ste-Marie, go ahead.

[*Translation*]

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

I want to begin by informing you that my colleague Sébastien Lemire will replace me during my second round of two and a half minutes. I will be asking questions in this round.

I want to begin by thanking all the guests for their presentations and their answers. This is very useful and enlightening.

However, I must say that I am disappointed. I'm not disappointed by your presentations, far from it. I sense among you the same thing I sensed among the previous panel, which was more focused on agriculture. I sense the consensus, the will to move forward and do things properly. That's important. Just about everyone shares this point of view, as far as I know. This should have been done a long time ago. My disappointment has to do with the fact that, when the bill was put to the vote in the House at second reading, unless I am mistaken, 146 members—145 Liberal members and one independent member—voted against it. At second reading, we vote on the principle. In this case, the idea is to make the lives of families easier when a business is sold to a family member to ensure succession. We want this transaction to be able to occur according to the same rules as if the sale was concluded with a third party. I cannot believe that people voted against that principle.

Among the arguments I have heard, there is the issue of a potential tax shortfall. However, I would like to remind you that the figures from the Parliamentary Budget Officer indicate that this is acceptable. After all, it must be fair. It shouldn't be less beneficial to sell your company to a family member or your children.

The remaining argument that has been raised a few times so far is that we don't want the bill to be used to create a tax loophole—in other words, to allow financial packages and tax schemes to reduce the tax to be paid. I am a member from Quebec, so I can tell you that the Government of Quebec made this change and created guidelines to ensure this would not happen.

So there are guidelines that make it possible for the system to work properly and to simplify the lives of families in order to en-

sure succession. How can we reassure the Liberal members who voted against the principle of this bill at second reading?

I would like to hear your comments on this. Mr. Janzen can begin, and Mr. Kelly can complete the answer.

Thank you.

• (1740)

[*English*]

The Chair: Mr. Janzen.

Mr. Brian Janzen: Thanks for the question.

Yes, I do think Bill C-208 does have enough guardrails, at least initially. As someone who has practised for 34 years, I'm going to preface this by saying that someone will always find something. Even if you think you have the proper guardrails now, you may have to tweak them later. We're all in favour of that.

Getting back to this particular thing, I really think the five-year time frame—if it's sold in the meantime and mom and dad pay their taxes as they would have without this bill—is a great provision. There definitely are some guardrails there.

Second, it just doesn't work to do an internal strip, the way Bill C-208 is set up. The internal strip, where you're taking out surplus without having a real sale, is where all the abuse happened in the early nineties. That is why section 84.1 was introduced. This bill really also helps for that.

Also, as I said with respect to the threshold for the value, these are the smaller businesses. This is not going to be, all of a sudden, undertaken by rich, rich, rich families to try to take advantage of it. With the guardrails, between the value and the time frame, I think this is perfect for the beginning of the bill. If it does need to be tweaked later, so be it. For now, though, this is a great limitation for any abuse, in my mind.

Mr. Daniel Kelly: I am just coming in behind that. Thank you so much for the question. I agree with your sentiment entirely.

In 2017, CFIB got involved in a little dust-up with the federal government over some small business tax changes that were being proposed. We had a tiny argument with the previous finance minister about that very issue. Many of the concerns behind that are similar to this.

One of the things that the government doesn't do well—and I'm not just talking about a political party here but even the department—is reach out to the business community, to the accounting community, and say, “Okay, we're seeing some problems with this aspect of the Income Tax Act. What can we do to shore it up without creating massive dislocation and unintended consequences?”

That does not happen often enough, I have to tell you. I agree entirely with the previous comments, that we should give this a try. If there is significant tax leakage, I believe all of the members presenting to you would be happy to talk to government, talk to the department about ways we can tighten up the rules if somebody finds a creative way to abuse these particular provisions. Business associations, my own included, have no time or tolerance for that. We want to make sure that we have an effective tax system.

I'd encourage you to pass the legislation. Then, if there are problems down the road, we can ask the department to amend as we go.

The Chair: Thank you, all.

We are turning to Mr. Julian, followed by Mr. Falk.

Mr. Peter Julian: Thank you very much, Mr. Chair, and thanks to all of our witnesses for being here today. We hope that you and your families continue to be safe and healthy during this pandemic.

I'm going to start with a question for Mr. Janzen and Mr. Mansfield.

Just so we're clear, neither of you has identified any elements of this bill that show evident weaknesses. You are just showing due diligence by stating that if anybody is able to find loopholes in the bill, we need to make sure we review them and fix those loopholes. However, you don't see any evident loopholes. Is that correct?

I'll start with Mr. Janzen.

Mr. Brian Janzen: That's correct. Since the bill is available to the public, my group and I have gone through it. If anything, we'd like to see it go a little further—we always do. But no, as much as I have said there are potential loopholes, we haven't seen any. With the two things I mentioned earlier, those are good safeguards to ensure this is done as it is intended. That will allow for the succession of family businesses on a level playing field.

No, I don't see any potential loopholes at this point. That would be my point.

• (1745)

Mr. Peter Julian: You're just being prudent in saying that if ever there was one, we need to be following up on that.

Mr. Brian Janzen: Yes.

Mr. Peter Julian: As with any legislation, we need to make sure it's doing what it's intended to do. Given that this bill comes from Guy Caron, who was an NDP member of Parliament and almost brought it through, and now we have a second attempt, we've had the scrutiny both times.

Mr. Brian Janzen: I have one last comment. What can often happen—and has happened throughout the history of the tax act—is that all of a sudden another piece of legislation might be introduced with no real correlation to this section, but it may inadvertently trigger a loophole.

You have to keep monitoring this, and that can be done in the future, but right now this has really good safeguards.

Mr. Peter Julian: Thank you.

Mr. Mansfield, I have the same question for you.

Mr. Dustin Mansfield: Having gone through the same analysis of the pieces that are added, it's always a little difficult from our standpoint until we see CRA's interpretation of how they or the minister would apply it. There are a few safeguards in there that would certainly help.

There is also one in there that says the taxpayer must provide the minister with an independent valuation; therefore, there has to be an independent valuation of the business and it has to be provided to the minister. Based on this and how it would work, whether that's

an election form or otherwise, it's going to be provided to Finance or to CRA in some regard, as well as an affidavit signed by the taxpayer and the third party.

I suppose when we talk about some of the abuse that comes into play, depending on what that requirement looks like when it's enacted, if you were asked to sign an affidavit with somebody who is legitimately selling a business versus not, that will create a fairly large check and balance in something being submitted to the government in regard to that.

As Brian said, there are always ways.... If you look at legislation that has been in practice long enough, as things change the dynamic, ways can come into play where it could be misused. However, in something like this, it's always about how much that potential misuse would cost and whether an additional provision could be added if the Department of Finance sees a potential to do that in some transaction.

Mr. Peter Julian: Thank you.

Now I'd like to move on to Mr. Kelly, Ms. Young and Ms. David.

I asked the previous panel, and I will ask you the same thing. Where do you see this 15 years down the road, in terms of business transfers, if we don't have this legislation, as opposed to having this legislation? I mean this in terms of the impact on the transfer of family businesses, financial impacts, all those things. If you could look into a crystal ball and compare the two scenarios—one with the bill, one without it—what is the difference?

I will start with Mr. Kelly.

Mr. Daniel Kelly: We have been talking for a long time about the tsunami of business transfers that is expected. I suppose the positive news is that a lot of business owners get to the age of normal retirement and then look at the business, look at the contributions they are making to society by keeping the business going, and then delay their retirement, either because they love doing what they're doing or because they feel they need to ensure that the business stays in that local community because of its contributions.

We had time before demographics started to take hold, but we've run out of that time and we need to be prepared because the clock is not getting kinder to us. At some point, these business owners are going to need to or will be forced to exit their businesses, and at that stage we're moving into a tough environment. If we see the bleeding of our local communities, rural communities, neighbourhoods in big cities, and small, independently owned and operated businesses, and their replacement with giant companies that own everything on the block, as Robyn mentioned, I'm not sure that is the kind of Canada all of us would love to live in.

I think we need to take this very seriously, and I'm hopeful that this legislation will make it across the finish line.

• (1750)

The Chair: Who else wanted to answer that question?

Was it Ms. David?

Ms. Cindy David: Yes. I'll chime in here.

A lot has been said on concerns about the unintended consequences of this legislation with regard to loopholes and large private corporations perhaps taking advantage of something that we hadn't intended. I would point out that if we do nothing, we're riddled with unintended consequences. Since this legislation was put in place.... It has been in place for a number of decades. One may wonder why we continue to push this forward: It's because the way we've taxed small businesses has actually changed within the framework of this legislation. The dividend tax has gone way up compared to what it was back in 1986, when this first affected small businesses.

Again, I'll just point out—if you could write this down on a piece of paper—that in our brief, which you will get on Friday, on page 5 we provide specific examples so that you can see how the tax has changed from 1986 to the current day. It has become very punitive. It actually highlights the fact that family businesses have a clear disadvantage today that they didn't have several decades ago under the exact same legislation that we have in place.

I'll leave you with this. Bill C-208 actually phases in a provision that disallows the exemption for the capital gains for larger companies. It already takes care of any potential leniency for large businesses and really is in favour of smaller businesses, which care more about using the capital gains exemption.

The Chair: Okay. We'll have to move on, as we're considerably over time on that one.

We're turning to Mr. Falk, who will be followed by Mr. Fragiskatos.

Go ahead, Ted.

Mr. Ted Falk: Thank you, Mr. Chair.

I want to thank all of our witnesses for coming to committee today. You have brought a lot of clarity in your presentations and in your responses to the questions as to what the bill is, what it will do and your perspective on it.

In my opinion, Bill C-208 is a bill that seeks to do one thing, and that is to address the inequity for small business owners, farmers and fishers who wish to sell their business or their enterprise to their family or their children. What it does is that it allows them to use the capital gains exemption, which they wouldn't be able to use currently for that but are able to use if they sell to a third party.

Mr. Janzen, you're from my home province of Manitoba. I'd like to ask you a few questions. You've indicated that this has been a thorn in your side for 34 years and that it is something you wish had been addressed sooner. How frequently do you encounter a situation where this would apply?

Mr. Brian Janzen: I'd say, without over-exaggeration, every day.

I'll just back up for a second. I don't think this has been said today, but section 84.1 is the section of the act that accountants get sued on more than any other section of the act, because it's so prevalent, it's not logical and it's not fair. A practitioner who doesn't have a tax group gets caught by this. It's there all the time, because it doesn't just apply....

I have another example. If my client were to buy the company from his brother, who inherited it from their grandfather, there's so much information that will affect future taxation, and they may not have this information. If the brothers are not speaking.... My client, brother number two, needs to know what brother number one claimed for his capital gains exemption.

To answer your question, section 84.1 is so prevalent. It applies in virtually all.... It's always in the back of our minds for any private enterprise, whether or not they're going to sell to their family. Any time we do a restructuring, it could inadvertently apply and trigger a dividend when you didn't think there would be one.

This bill doesn't fix all that stuff, but it really fixes what it needs to start.

• (1755)

Mr. Ted Falk: I was going to ask you about that. Do you think section 84.1 as addressed in Bill C-208 adequately addresses some of those issues that you're struggling with on a day-to-day basis?

Mr. Brian Janzen: It does.

Mr. Ted Falk: Okay.

What are your thoughts on the guardrails that have been embedded into the bill, the five-year period for resale of those shares?

Mr. Brian Janzen: I think that's fair. As we said, those of us who have been advocating for the change to section 84.1 don't want it to be abused. We think the section needs to stay there for abuse, but these guardrails prevent that. These guardrails make it apply to legitimate succession planning, legitimate transactions between parent and kids, or grandparent and kids.

I think they are fair. As I said, it doesn't take long to get to a \$10-million value, and that's where this phase-in starts to apply. If I had my druthers, I would like to see that threshold be a bit larger, but I'm totally fine with this as a starting point.

Mr. Ted Falk: I was happy to hear, as you clearly explained in your presentation, that the way the bill is written it is most advantageous to small business owners and doesn't provide an undue benefit to large corporations.

Mr. Brian Janzen: That's correct. It's partly because of the guardrails you have in this bill, but also because for the larger companies.... I've just gone through a couple here, and section 84.1 and the capital gains exemption didn't even come into play. The numbers are big enough that this is just a.... It's not material to the larger private businesses. This is really helping the small private business.

Mr. Ted Falk: This is for a situation where mom and pop—who have been community builders their whole lives and have been the ones who have sponsored the health foundations, the food banks, the sports clubs and the community centres, and contributed all year long—have their nest egg for retirement stuck in their business, and now they are looking at a choice of whether to sell it to their kids and allow them to continue this rich legacy but give a lot of it away by tax, or sell it to Joe Blow down the street and end up with more cash in their pocket.

This bill seeks to address exactly that inequity.

Mr. Brian Janzen: Exactly.

Sorry, I have one last comment. Keep in mind that, again, these people don't have tons of pensions or RRSPs. This is their retirement.

Mr. Ted Falk: Thank you very much.

The Chair: Thank you, both.

We go now to Mr. Fragiskatos for five minutes, followed by Mr. Lemire.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Chair.

Thank you to the witnesses. I will begin with the CFIB, if I could.

Mr. Kelly, thanks for being here again this week. It's great to get your insights. I'm pointing to you because I'm wondering if you have data. Is there any clear data that indicates the percentage of small business owners who would want to sell their business to their family but cannot? Has CFIB accumulated any data along those lines?

Mr. Daniel Kelly: I don't know that we've asked that specific nuance to the question, but in the deck I shared with the clerk, which I believe was sent to you, on how business owners intend to exit their business.... It's on page 5 of the deck if you have it.

The top answer in terms of to whom they might leave their business is that 48% of businesses say they plan to sell to buyers unrelated to their family; 25% say they plan to sell to employees, which is another topic for another day at finance committee; 25% of businesses say they are looking to sell to family members; 21% to transfer to family members through an inheritance; and 15% wind down.

This data was pre-pandemic. What it doesn't tell you, which is I think the nature of your question, is what would happen if the rules were different. Would some of those who are looking to sell outside of their family choose to sell to the family, and would that cause some form of shift?

Our suspicion from the discussions we've had with business owners is that it would. We've talked to many business owners and in fact some of the kids, who say it makes no financial sense to pass the business down from one generation to the next. That would be perhaps a smart decision for the future of the company, but not a good decision for mom and dad who are looking to retire.

I want to underscore the other point: 80% of our members look to the value of their business to fund their retirement. They don't have huge numbers of RRSPs, or defined benefit pension plans. They are relying on the value of their business, and especially as we come out of COVID, that value is way lower for many of these business owners and something we should all keep in mind as we look at this.

● (1800)

Mr. Peter Fragiskatos: Thank you very much for that.

Mr. Wark, I think it was Ms. Dzerowicz who talked about this initially. When she asked you the question, you pointed to the possibility of an entity reverting back to the original owner. I wrote down your comment specifically. You said that, in cases like that,

hypotheticals like that, that possibility could be "easily fixed". These are your words. Could you expand on that?

Mr. Kevin Wark: I think the guardrail you've put in place is that the purchasing corporation acquires de facto and de jure control of the purchased corporation, so that the value and the control is in the purchasing corporation.

Mr. Peter Fragiskatos: I want to ask you, if I could, and I'd also like the thoughts of Mr. Janzen and Mr. Mansfield on this.... There's been a criticism of Bill C-208 that I agree with in spirit, in principle. Of course we would want to, as a finance committee, address unfairness—I say that especially as the son of a small business owner—but there has been a criticism along the lines of the lack of a requirement in the bill for a child to be involved in the transferred corporation's business or for the parent to cease to be involved after the transfer.

Do you have any thoughts on how to address that gap in the legislation?

I'll begin with you, Mr. Wark. Then I'll go to Mr. Janzen and wrap up with Mr. Mansfield.

Mr. Kevin Wark: In the submission we've made to the finance committee, we talked about the consultation process that Finance undertook in 2017. They commented on whether the business owner, after selling, should continue to be part of the business or not.

We engaged an outside consultant who was involved in consulting primarily on arm's-length transactions of private businesses. He indicated that, in the majority of those situations, the selling owner was obligated to continue in the business because of the transfer of information and relationships. To differentiate that from a family transfer doesn't seem to make sense. It would make more sense for the business owner to have some role to play longer-term to ensure that the business continues to be successful.

Our argument is that they should not necessarily control the business after the transfer, but they should continue to be able to play a significant role.

Mr. Peter Fragiskatos: Mr. Janzen and Mr. Mansfield, please go ahead.

Mr. Brian Janzen: I would echo those comments, because in many cases the second generation wants the previous generation to stay involved in some form or another, sometimes not at all, but often. I think it was Kevin who was saying that in many cases.... I've just gone through a few sales here in the last year, and in all cases they wanted the arm's-length previous COO, the president, to stay involved, at least for a year or two, just on a consulting basis for his expertise, etc.

I don't think that should be a restriction.

Second—

Mr. Peter Fragiskatos: I don't mean to cut you off, Mr. Janzen, but there ought to be, of course, a requirement for the child, the purchaser, to be involved in the corporation's business, which is, from my reading of the bill, lacking right now.

Mr. Brian Janzen: As for the first part, yes. The second part, yes, I agree with that, but there's no requirement when you're selling to a third party that the third party... That third party has every right to have managers run the business. If dad is selling to son, and son wants to stay involved, obviously he has to stay involved at some point or in some manner, but maybe not day to day, and he hires a COO to run it.

That happens, and that should not be penalized, either. The son is still going to be ultimately involved in the business, but maybe not day to day.

• (1805)

Mr. Peter Fragiskatos: Thank you.

The Chair: Do you have anything you want to add to that, Mr. Mansfield? We're a little over time.

Mr. Dustin Mansfield: If we're over time, by all means, you can certainly move on.

I can add a couple of things, I guess.

The Chair: You might as well. Go ahead.

Mr. Dustin Mansfield: Sure. For the first one, I would agree that in the non-arm's-length and arm's-length environments, thinking of that with regard to a third party, there's no requirement that the individual be active.

Thinking down your line, if a parent was still active in the business and the child was not active in the business, then they would fall afoul of certain rules such as tax on split income, etc., so there are various other provisions that would come into play in situations like that as well.

The Chair: Thank you all.

Next we have Mr. Lemire, followed by Mr. Julian.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Thank you very much, Mr. Chair.

Can you hear me well?

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Sébastien Lemire: Thank you.

I would like to talk about an article published in the March 30, 2017 edition of the *Journal de Montréal*, during a debate on Bill C-274 introduced by New Democrat Guy Caron. The article mentions this bill introduced by the NDP and rejected by the Liberals, but I want to point out that my colleague Xavier Barsalou-Duval introduced in 2016 Bill C-275, which had the same objectives.

The *Journal de Montréal* article I am talking about says that the Liberals opposed the bill under the pretext that its implementation would cost between \$800 million and \$1.2 billion. They were then rebuffed by the Parliamentary Budget Officer who, as the taxpayers' watchdog, estimated that the annual cost would rather be between \$163 million and \$273 million. Those amounts are much lower than those the Trudeau government used to oppose the bill.

Mr. Kelly, do you think the numbers put forward are still realistic? How much do you think that kind of a measure would cost? In addition, what businesses would benefit most from it?

[*English*]

Mr. Daniel Kelly: I don't have data on the exact cost of this particular bill, but what I can tell you, just to echo the concerns that were shared earlier about the estimates the department put forward, is that some of the assumptions they made seemed crazy. They made assumptions that this would be used by virtually everyone.

We've seen this, of course, during pandemic programming where government departments federally and provincially have estimated that, well, if every single business owner ever in the history of mankind used this provision, here's what it would cost. Of course that never happens, but it's meant to scare legislators away from considering these kinds of measures.

Again, I know they have a job to do and I know they take it seriously, but sometimes the results of that cannot be taken seriously when you poke a few holes in them.

[*Translation*]

Mr. Sébastien Lemire: My understanding is that this is the kind of bogeyman the Trudeau government used at the time.

What do you think, Mr. Mansfield?

[*English*]

Mr. Dustin Mansfield: I think in terms of coming to the pure cost of any measure, I probably don't have the ability to do that and I don't have the experience in that area. I've heard from a lot of members today, as well as in previous sessions, and they all seem to be in line with the spirit of what this is trying to accomplish. In my mind, in dealing with anything, you always focus on the spirit and work out those small details that are needed to push it past the finish line. That's what I'm hearing most of today.

The Chair: Thank you.

Mr. Julian.

Mr. Peter Julian: Thanks, Mr. Chair.

I'd like to go to Ms. Young, because I had asked the question in the last round and she didn't get a chance to respond. That was the question of looking in the crystal ball over the next 15 years, with the bill and without the bill.

Ms. Robyn Young: I think we're already seeing it happen, particularly in the last couple of years. We're seeing a lot of large consolidations of small brokerages that are selling to large corporations, as I mentioned in my comments, either backed by private equity firms or by insurance carriers or whatnot. We're already seeing it.

We have a large number of brokers—3,400 brokerages in Canada—that primarily have fewer than 15 employees, and they have to make a choice to sell to a large corporation with deep pockets or to pass it along to their family that is working alongside them in the business. If the playing field isn't equal, then they're going to make the best decision for their retirement.

• (1810)

Mr. Peter Julian: Thank you.

I'd like to go back to Mr. Kelly.

There are two things. First off, the estimated cost of this is a fraction of the amount of money that the Parliamentary Budget Officer tells us we lose to overseas tax havens. Every year we lose \$25 billion, at least, in tax revenues to overseas tax havens. So, the amount that is estimated by the Parliamentary Budget Officer, around \$275 million annually, is a pittance. Of course, the benefits far outweigh the small level of cost, but if anybody is concerned about tax leakage, overseas tax havens should be the first priority. That would be my first question to you.

My second question is this. Are you familiar, because you have international links, with any other country that actually penalizes, in the tax system, people for transferring their family business or their family farms to their children?

Mr. Daniel Kelly: Thank you for those questions. I agree with you that there are better spots for us to pursue additional government revenue if that were the objective here.

The lens with which we would encourage you to look at it, first and foremost, is to do what's fair. If groups like mine were coming to you and saying, "Okay, let's put an advantage in place to sell to an international company or to an arm's-length party", I think you would rightly laugh us out of the room. If we were saying, "Let's create a huge advantage to sell to our kids", you might question whether that's fair. Governments should be neutral here and ensure that the tax treatment of the sale of a business, whether it's to one's family or to a third party, is the same.

My understanding is that this is how it works in the rest of the world. Tax policy should not speak to whom we should advantage in the sale of a business. We should make it a level playing field regardless, and then let the market, business owners, sort out who is the best party to take over the businesses.

Honestly, if we were to incent something, I think it's in the national interest to incent the transfer of the business to the kids for all the reasons we've talked about, including keeping those businesses as going concerns in the communities that depend on them for jobs and employment.

The Chair: Thank you, all.

We'll go to Mr. Kelly, and then Mr. McLeod will have to wrap up this panel, because we need five minutes at the end and we have a hard stop at 6:29.

Mr. Pat Kelly: Thanks, Mr. Chair.

Perhaps again I'll go to Mr. Janzen on this. He mentioned this before, but I really want to make sure that it is clearly understood by the critics of this bill, or those who seem to have the greatest concern about its consequences: This bill does not convey a tax advantage to businesses that operate through a limited company transferring between the generations; this bill removes a disadvantage to those businesses.

Is that about as fine a point as we can put on it?

Mr. Brian Janzen: Absolutely. Just getting back to Daniel's comments as well, all this is doing is levelling the playing field—and not even fully yet, but it's a great start.

You're right. If this bill passes as is, there's still no advantage. Someone selling their business to their kid will not be at an advantage over somebody selling their business to a third party.

Mr. Pat Kelly: Exactly. We're merely taking away—

Mr. Brian Janzen: We're taking away some of the disadvantage.

Mr. Pat Kelly: —one of many disadvantages that a person has when they choose a life of self-employment. It's a very difficult thing to run your own business, and the risks to one's family's financial security are enormous. They're unlimited, really.

• (1815)

Mr. Brian Janzen: Yes.

Mr. Pat Kelly: I know the time is short, so maybe I'll keep this going and switch to Ms. David, or both Ms. David and the insurance brokers.

We've heard a lot in testimony about the impact on farms, a bit on fishers, and a bit about others. I've listed restaurants, small manufacturers and things like that, but professional service providers, thousands of them, have limited companies too and have built up a business that they would want to transfer to the next generation.

Could you maybe comment on how common limited companies are among financial service providers?

Ms. Cindy David: We're actually a great industry to reflect that, because aside from other diversity issues, we have an aging demographic problem in financial services, particularly insurance. We see many of our retiring advisers selling their practices to their children; it's probably overweight to the family side.

You don't have to look very far to find small businesses in multiple jurisdictions, different labour markets, that are affected by this.

Mr. Pat Kelly: Do the insurance brokers have anything to add?

Mr. Peter Braid: Thank you very much, Mr. Chair.

It's a great question. The demographics of the broker channel are very similar to the demographics across the small business community. We have a number of businesses and a number of business owners who are, or will soon be, at the stage of considering a business transfer.

This bill provides a wonderful opportunity to level the playing field and to ensure that the significant number of insurance brokerages that are family owned across the country can consider the sale within the context of their family. We think this is absolutely critical.

I know Robyn may have some of her own personal experience to share as well.

Ms. Robyn Young: As a second-generation broker, it was tough to convince my parents to even want to sell to us, for a multitude of reasons. It was primarily because they could sell to a third party for significantly more money.

Ultimately, as I said in my opening remarks, they wanted to continue to add to and support the community that they built their business in.

Mr. Pat Kelly: It goes without saying that this would be the same for real estate practices, mortgage brokers—which is my background—medical professionals, law, accounting and any variety of these types of businesses.

With that, Wayne, I'll turn it back over.

The Chair: Thanks, Pat.

Mr. McLeod, you have the last shot at this panel.

Mr. Michael McLeod: Thank you, Mr. Chair. I'll be quick.

Bill C-208 was brought in by Larry Maguire, who is a Conservative member. He made a lot of good arguments in his presentation. We hear a lot of people supporting this. It seems like a logical thing to have families being able to transfer their businesses to their children.

The last time it was raised, in 2017, lots of issues hadn't been resolved. I hear from a lot of people who have been working on this for quite some time. It looks like it's been a thorn in the side of many people on this panel.

Why didn't it happen when the Conservatives were in power? They're now bringing it forward. What stopped it before?

Maybe that's for Dan or Brian.

The Chair: Dan has been around as long as I have. Dan, it's up to you.

Mr. Daniel Kelly: The same finance officials who hate this idea now hated this idea then and advised government not to go down this road. The Tories at least reviewed the legislation—to their credit—but didn't pass it when the Liberal MP Emmanuel Dubourg proposed this years ago.

I'll remind you that Emmanuel, prior to becoming a parliamentarian, was a CRA auditor, so he knows what he is talking about.

I think inaction and prioritization were the enemy of this. This is a confusing area, and nobody—no minister—wants to be the one who presides over something that is going to create some giant new loophole that costs the treasury a bunch of cash.

This isn't that bill. This is a bill that I think has put in place reasonable guardrails. Emmanuel Dubourg tried to do that; Guy Caron tried to do that. I think Larry Maguire is doing the same thing, which is trying to make sure we find that balance to ensure that we can provide legislation to level the playing field, without necessarily leaving a giant new way for creative people to try to get out of their tax obligations.

I think this bill does that. I really urge the committee to give this your strong endorsement, so we can get this issue behind us. If tweaks are needed, call us all back. I guarantee you that the ac-

counting community and business associations like mine and others will be there to find ways to shore up any gaps that we may encounter along the way. You have my word to do that.

• (1820)

Mr. Peter Braid: I can perhaps jump in on that one as well.

Historically, private members' bills will fail or succeed for a whole range of reasons, but parliamentarians have a unique opportunity to seize the moment today. I think there is a greater element of political will around this particular bill, Bill C-208.

The backdrop of our circumstances is different. As you all well know and can appreciate, we've been through a year of a global pandemic and the demographics of the small business community have also changed. The time is now.

Mr. Michael McLeod: Mr. Chair, I have one more quick question.

I wanted to hear from everybody that they all agree that this is going to reverse the trend that's been happening for some time, where farms are being sold to large corporations. We're now going to see farms sold to families and businesses sold to families. Businesses will stay on that parents and grandparents worked so hard to build up.

Ms. Cindy David: As an adviser on the front lines who has these conversations with business owners who are looking to retire, I'd say you hit the nail on the head. Tax dictates behaviour. If it causes me tax pain to sell my business to my child, I'm going to look to avoid that pain. If we fix that, it will result in the correct behaviour.

The Chair: It will not solve all the problems, but it will help.

Does anybody else want to add a final comment before we release the witnesses?

I want to sincerely thank all the witnesses. We had a very informative discussion. Your personal experience in terms of dealing with individuals on intergenerational transfers, whether it's farms or small business or fishers, certainly showed through in your knowledge during this discussion. I want to thank each and every one of you for that on behalf of the committee.

To the committee, I suggested earlier that we probably have an option on Thursday if we want to continue on with this bill. We could move the in camera meeting on COVID expenses to March 30, so we have the full slate of witnesses. I'm not sure which department we're short, but we're short one.

If you prefer, we can have Minister Freeland on for the first hour, and then we'll have officials. That's on Bill C-14. We could take the third hour and deal with Bill C-208—have officials there and the legislative clerk, and see if we could finish up with Bill C-208. Then we could move the other in camera session to the 30th.

Are we okay with doing that? I see people's heads moving.

Okay then. We'll move the in camera meeting to the 30th, and we'll go with Bill C-208 on Thursday during the third hour. The meeting is adjourned.

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