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—
Chair

Mr. Brian Pallister

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• (1110)

[English]

The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)):
Good morning to our committee members and our guests.

Pursuant to the order of reference of Monday, May 14, 2007, we are meeting on Bill C-33, an act to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bilingual expression of the provisions of that act.

Appearing this morning is our colleague, the Honourable Diane Ablonczy, parliamentary secretary to the Minister of Finance.

I call clause 1.

Diane, do you have some opening comments you would like to put on the record?

Ms. Diane Ablonczy (Parliamentary Secretary to the Minister of Finance): Yes, I do, Mr. Chairman. Thank you very much.

To my colleagues, who will no doubt be hanging on my every word, good morning.

I'd just like to make a few comments to set the background on our study of this bill. I hope they will be helpful to my colleagues this morning.

Bill C-33 implements certain tax measures and amendments to the Income Tax Act. Specifically, this bill proposes measures regarding the taxation of non-resident trusts and foreign investment entities, otherwise known as NRTs and FIEs. It also contains a number of proposed technical amendments to the Income Tax Act.

The intent of this bill before the committee today is to help strengthen our tax system by ensuring its equity and integrity.

First of all, with regard to the non-resident trusts and foreign investment entities, the measures in this proposed legislation are intended to prevent tax deferral and avoidance through the use of foreign investment funds and trusts. Since we're studying this whole area, by the way, I think this will be of particular interest to all of us on the committee.

This type of activity has moderated substantially in recent years, but Bill C-33 will ensure that if someone tries to avoid taxes by using foreign investment funds, any income earned on that investment will be taxed as if it were earned in Canada. Bill C-33 does this by proposing to amend provisions of the Income Tax Act relating to the taxation of income earned from non-resident trusts and

foreign investment entities to investment vehicles used sometimes by Canadian taxpayers.

I should note here that the amendments in this bill were developed in consultation with professional tax advisers and taxation authorities as well as with taxpayers themselves. These changes also respond directly to concerns raised by the Auditor General.

These proposals were released in draft legislation in June 2005, nearly two years ago now, giving ample time for input by stakeholders. So these provisions are not going to take anyone by surprise.

The amendments are important and necessary for a very good reason, and that has to do with the equity of our tax system. As you know, Canada generally taxes just the Canadian-sourced income of taxpayers who are not resident in Canada. There exists, therefore, an income tax incentive for Canadian residents to earn investment income using non-resident trusts and foreign investment entities based in a country other than Canada that impose no tax or a low tax. In other words, using these investment vehicles to earn investment income, residents of Canada could inappropriately defer or avoid altogether the payment of Canadian taxes.

Mr. Chairman, we cannot have a competitive tax system if it allows a way for Canadian taxpayers to avoid paying appropriate taxes. Not only would that erode Canada's tax base, but it creates inequities that undermine the very integrity of our tax system. And of course when some people avoid paying taxes, other taxpayers must contribute more to pay for the government programs that are valued by Canadians.

The bottom line, Mr. Chairman, is that these changes in Bill C-33 before us will level the playing field. They will also allow Canadian investment vehicles to compete on an equal footing with foreign-based investment opportunities.

Turning briefly to the technical amendments, as I mentioned at the outset, Bill C-33 also includes a number of proposed technical amendments to the Income Tax Act that are essentially housekeeping measures. The intent of these amendments is to correct or clarify the application of existing income tax provisions. They will also implement measures that have already been announced by this government and the previous one and deal with other income tax situations that require legislative response.

Technical tax bills are quite common. They come up every few years and are used to implement small changes that typically clarify provisions in the act so that they better reflect the policy intent. Most often these changes are pointed out by tax practitioners, who identify tweaks that are necessary.

These changes are not controversial. Most are relieving in nature and a few are neutral. They include things like expanding the RRSP rollover options available on the death of the parent or spouse of a mentally disabled individual. Providing income tax exemptions for corporations owned by municipalities or public bodies performing a function of government is another example.

Before I open the floor to questions, I would remind the committee members again that the intent of this proposed legislation is to improve the equity and integrity of our tax system.

I will now be pleased to answer any questions from committee members about Bill C-33. I also welcome the assistance of our brightest and best officials from Finance Canada, Mr. Lalonde and Mr. Conway, who have joined us here today.

Thank you, Mr. Chairman.

The Chair: Thank you, Madam.

We'll begin with Mr. McCallum for five minutes.

•(1115)

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

I may share my time with any of my colleagues who are interested, because I believe this bill originated in Liberal days. I don't think there's any controversy surrounding it.

Those are my comments. Thank you.

Ms. Diane Ablonczy: I would like the clerk to note that it is a red letter day when my friend from the Liberal Party is so kind and accepting of a government proposal.

Hon. John McCallum: We're always happy to work together with the government on the rare occasion when they do something sensible.

Ms. Diane Ablonczy: Touché.

The Chair: I'm hesitant to call for order with so much love in the room, but I think I'll continue now with Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): I think the record should note that the chair is wearing the same kind of glasses as my tie.

The Chair: Do you want to share your time with anyone else?

Hon. John McKay: I don't expect to share any time.

To the officials, it says in the speech that the measures proposed in this legislation are intended to prevent tax deferral and avoidance through use of foreign investment funds and trusts.

Can you be specific about that, please?

Mr. Gérard Lalonde (Acting Director, Tax Policy Branch, Department of Finance): Sure. These proposals deal with measures that were originally announced quite a while ago, in the 1999 budget. Drafts were released over the years—in 2000 and in 2001-

02. In 2003, they were tabled as a notice of ways and means motion, and again in draft legislation in 2005, eventually making their way into this bill. On each of those occasions they dealt with an opportunity to provide more consultation with the tax profession and iron out some of the areas of contention.

In essence, these measures try to ensure, in the context of the foreign investment entities and non-resident trusts, that Canadians cannot get a better tax deal by investing offshore than by investing in Canada. In the case of non-resident trusts, they try to ensure that people cannot move income out of the Canadian tax net by moving assets into non-resident trusts.

Hon. John McKay: So they've already been implemented through a ways and means motion.

Mr. Gérard Lalonde: That ways and means motion fell with the prorogation of the government at that time and was not re-introduced. Subsequent to that there was another release in draft. So right now the operative document that people are looking at is effectively the 1985 draft, followed by this bill and the announcement by the Minister of Finance that the measures on FIEs and NRTs would come into effect starting in 2007.

Hon. John McKay: I'm not quite sure I'm following this.

Do you mean they were initially introduced in a ways and means motion in 2003, but with the prorogation of Parliament the ways and means motion ceased?

Mr. Gérard Lalonde: It went into limbo, and it wasn't clear what was going to happen with it at that point. The intent to proceed with the measures was re-established by the government of the day in 2005 with the July 18 release of further draft legislation incorporating these measures.

Hon. John McKay: Have the department and taxpayers been operating as if this has been passed, as if this is law?

Mr. Gérard Lalonde: With the announcement by the Minister of Finance in November of last year that these measures would be reintroduced in this bill, but effective for 2007, the Canada Revenue Agency and taxpayers are operating on the basis that these proposals may very well become law, and if you don't file in accordance with them you may be subject to a reassessment later, once it is passed.

•(1120)

Hon. John McKay: They may get some unwanted attention from Her Majesty.

Thank you.

The Chair: We'll continue with Monsieur Crête.

[*Translation*]

Mr. Crête, you have five minutes.

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Thank you, Mr. Chairman.

Ms. Ablonczy, in your presentation notes, in the chapter on non-resident trusts and foreign investment entities, you state regarding the bill that:

The measures in this proposed legislation are intended to prevent tax deferral and avoidance through the use of foreign investment funds and trusts.

This type of activity has moderated substantially in recent years. Bill C-33 will ensure that, if someone tries to avoid taxes by using foreign investment funds, any income earned on that investment will be taxed as if it were earned in Canada.

Could you or could the experts tell us what type of a decrease there has been in this type of activity in recent years? You say this method is used extensively. I would like to know if you have any figures on the importance of the decrease in the use of this loophole that would show that it has been partly or fully closed.

[English]

Ms. Diane Ablonczy: That's a good question. I suspect the reduction in the use of these instruments is because there's a pretty sure bet that they're going to be regulated in the way we've set out in the bill.

I'm going to ask Mr. Lalonde to give more specifics on how the use of these instruments is being reduced.

Mr. Gérard Lalonde: We don't have any specific number, simply because it's hard to place a number on what isn't there. In the lead-up to the 1999 budget, tax avoidance through the use of non-resident trusts and foreign investment entities was becoming more and more prevalent and public. People were giving public presentations on how you could save Canadian tax revenue by investing in these vehicles.

With the introduction of the proposals in the 1999 budget and the 2000 draft, followed by subsequent drafts, the Canadian tax population was put on notice that these proposals were coming down the pike. While the application date for the proposals has been postponed twice, the fact of the matter is that during the period of time when the proposals were expected to be extant, people did not enter into those kinds of transactions because they were expecting the tax results to happen.

[Translation]

Mr. Paul Crête: I am a bit surprised by the fact that, even though you state in your notes that the activity has moderated in recent years, you are unable to put any figures on this reduction. More generally, what is the size of the tax avoidance problem in Canada at the present time? Are these changes going to close 5%, 10%, 20% of this loophole? What is the total size of the tax avoidance activity that you have been able to identify, for example with the bill on interest costs deductions, this one and other measures? Could you give us a general idea as to how much of the problem Bill C-33 will solve?

[English]

Mr. Gérard Lalonde: Again, it is very difficult to come up with a number on this, and I'll give you an example of why.

We're starting off with a period of some eight years ago, with the lead-up to the 1999 budget. The government was seeing a problem becoming prevalent in those days. These measures put an end to that and curtailed that kind of activity. Where would it have gone if these measures had not been introduced? That's anybody's guess. While one can well imagine how innovative tax schemes are developed for clients who can afford very high-priced tax counsel, you were seeing back in those days that tax savings mechanisms were being marketed basically to the masses. Where that would have gone had the government not proposed changes back then and proceeded over the

course of the years, that's a very good question. I can't give you a number on that.

Wally, perhaps you could give them some ballpark estimation of how these measures have curtailed the kinds of activities we were seeing back in 1999.

• (1125)

Mr. Wallace Conway (Chief, Tax Legislation Division, Foreign Income, Trusts and Capital Gains, Department of Finance): Back when we first introduced the measures, we had done some research. We discovered, based on data that was provided to us from various sources, that there was about \$90 billion invested in trusts and these types of investments, offshore investments.

Over the years, when we announce the measures, we are in constant contact with the legal profession and the accounting profession—our colleagues on the other side of the table, if you will—and we often have frank discussions. With these measures, they told us, once we introduced them they were unwound because they were no longer tax efficient. There's a lot of cost associated with setting these up. They were unwound just to get rid of the cost and because there was no tax advantage any longer.

The Chair: Thank you, Monsieur Crête.

Mr. Dykstra, five minutes—

Mr. Rick Dykstra (St. Catharines, CPC): Thank you, Mr. Chair.

The Chair: —maximum.

Mr. Rick Dykstra (St. Catharines, CPC): Maximum?

You look striking in those glasses, I must say, Mr. Chair.

I may share my time, depending on how quickly my questions go.

The Chair: [*Inaudible—Editor*]...may have a little extra time.

Some hon. members: Oh, oh!

Mr. Rick Dykstra: Might I also say that you're one of the most generous chairs I've ever met?

Thanks for the presentation.

A couple of things struck me in the bill. We've obviously had some discussions around tax havens and the offshore aspect, and what we're trying to work against or what we're trying to straighten out. I'm wondering how the tightening of these offshore havens, in terms of the technical amendments in this bill, will actually be viewed by either taxpayers or, quite frankly, the Auditor General.

Ms. Diane Ablonczy: As I mentioned, the Auditor General has raised concerns about this kind of tax avoidance. The measures in this bill are to some degree responsive to the Auditor General's concerns. The reason there are concerns, of course, is that if some Canadians are able to shelter or hide some of their tax liability, then other taxpayers have to pick up the slack. We all enjoy the same services, but if only some people pay for them and others who should be helping to pay for them are avoiding that, then you put an unfair burden on those who have not arranged their affairs to avoid tax. So it's very important for fairness.

Further to that, when we can achieve tax fairness, where everybody is paying what they ought to be paying—no more and no less, of course, as the taxpayers bill of rights now says—then we can start providing tax relief for everyone. For example, in our tax fairness plan we were able to increase the age credit amount for seniors by \$1,000 a year; that's an additional \$1,000. We were able to introduce pension income splitting for pensioners. We were able to make a further one-half percentage reduction in the corporate tax rate.

These are things we can do for everybody once we capture all of the tax revenue that should be coming into government and that may be improperly sheltered through these kinds of devices.

Mr. Rick Dykstra: You mentioned responsibilities, and while this may be a little bit more technical, one of the aspects in the bill is the expansion of the RRSP rollover options that are available on the death of a parent or the spouse of a mentally infirm individual. I know that's a bit technical, but obviously there are some advantages.

I wondered if either you, Ms. Ablonczy, or one of the members of the staff of the ministry would like to comment on exactly the benefits of that and what that means.

Ms. Diane Ablonczy: It is an important measure, and I'll ask Mr. Lalonde to talk about that. He's familiar with the technicalities.

Mr. Gérard Lalonde: As we mentioned, a large part of this bill has to do with various technical amendments that were introduced to the Income Tax Act. As a result, it's going to take me a moment to refresh my memory as to which one of these very many amendments—

• (1130)

Mr. Rick Dykstra: I know my colleague Mr. Wallace has a question. Maybe while you're looking for that he could ask his.

Would that be all right, Chair?

Mr. Gérard Lalonde: Thank you very much.

Mr. Mike Wallace (Burlington, CPC): I have two questions. I have my municipal hat on. Could you give me the example of corporations owned by municipalities, how this change would affect them? I'm not sure what we're talking about there, to be frank.

Mr. Gérard Lalonde: That one I can handle a little more quickly because I recall the particular circumstances.

The Tax Court of Canada, in a case called Otineka—the name's much longer than that, but it goes by the short name of Otineka—in 1994, came to the conclusion that a municipality, for the purposes of determining whether a wholly owned subsidiary corporation of a municipality could be tax exempt.... It took the position that a

municipality could be determined such or not such based on the functions the particular entity exercised. In this case it had to do with an Indian band, as to whether they qualified as a municipality and were therefore eligible to have tax exempt municipal corporations.

The Income Tax Act was administered on that basis for some time, until another decision came down, Tawich Development Corporation v. the Deputy Minister of Revenue for Quebec, which came to a contrary conclusion. As a result, you now had a situation where some municipalities or some entities that thought they were municipalities—Indian bands or otherwise that were treated as municipalities based on the functions they performed—might not now qualify for that, and therefore their wholly owned municipal corporations would also not qualify.

The amendment here fixes it to reinstate the status quo ante such that the determination of whether or not an entity is a municipality or not for the purposes of being able to have a tax exempt municipal corporation as a subsidiary is determined based on the functions exercised by the entity.

The Chair: *Merci, monsieur.*

We continue now with Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Just before I begin, Mr. Chairperson, are we under a time restraint on this?

The Chair: Five minutes.

Ms. Judy Wasylycia-Leis: I have lots of questions.

I'm going to start by saying that the fact that this, in large part, was a Liberal initiative doesn't give me a lot of comfort or satisfaction. In fact, I'm even more worried now.

My questions have to do with the ability, through this bill, to get at what this committee has identified as a very large and growing problem. We've spent a lot of time talking about tax havens and tax avoidance. We now have a bill, and we have a commitment through the budget to do some longer-term study on this matter.

Can you give me a concrete example of what this bill would do, what impact it would have on Canadian foreign direct investment? What's the likely impact?

Ms. Diane Ablonczy: I'll lead off with a couple of comments. One is that I think we should be clear that this is not a partisan initiative in any way, shape, or form. It is a measure that any responsible government would need to undertake to ensure that the tax act reflects judicial decisions that are made from time to time, and it is also responsive to some of the ambiguities or problems that are pointed out by tax practitioners and taxpayers.

Ms. Judy Wasylycia-Leis: I appreciate that, but given the fact that this was started in 1999....

Ms. Diane Ablonczy: Whatever government it would be, you would probably be getting the same act.

With respect to the impact on foreign investment, what it will do, in a nutshell, is that it will not encourage Canadians to try to shelter their money in foreign investment entities, because there will now be no tax advantage in doing so. That income would be taxed the very same way it would be if a Canadian invested in a Canadian investment entity. So it levels the playing field between the two and doesn't give preference to a foreign investment entity.

I don't know whether the officials have anything to add, but that's the bottom line.

• (1135)

Ms. Judy Wasylycia-Leis: But in the last decade, all the while that this bill has been before us and never enacted, we've seen investment in offshore havens or offshore financial centres multiply dramatically. We know it has increased eight-fold from about at least \$11 billion to \$88 billion.

Is this bill going to make it more likely that we are collecting the taxes we should be collecting, and that in fact we are cracking down significantly on tax avoidance?

Ms. Diane Ablonczy: Well, I think it depends on the percentage of investment that was or could be sheltered in these so-called FIEs and NRTs. As the officials have emphasized, once it was clear that this kind of tax shelter was going to be taxed as if it were Canadian income, the use of at least these two entities has fallen dramatically.

Now, you may be referring to increases in the use of other tax shelters. That's outside the scope of the bill, but it's within the scope of the study this committee is undertaking and also of the committee that was set up under the budget. So I imagine we'll get into that, but I would suggest that at this point that's a little bit beyond the scope of what's being dealt with in this bill.

Ms. Judy Wasylycia-Leis: Given the limited scope the bill is dealing with, do we have the enforcement capacity to actually deliver what the bill promises, given the Auditor General's concerns, given the problems CRA is having in terms of international enforcement? Do we have the capacity to fully implement Bill C-33?

Ms. Diane Ablonczy: That's a good question. I defer to Mr. Lalonde.

Mr. Gérard Lalonde: Yes, the Canada Revenue Agency has obviously been aware of these provisions for some time, and they've geared up for them. Over the last couple of budgets, they have been allocated additional funds for the administration of the international tax system, and international tax compliance in particular. They also belong to an organization—well, “organization” might be a big word—or a group that includes people from the Canada Revenue Agency and people from the tax administrators of other countries, including the United States. It keeps a very close eye on what is being developed in the tax community so they can stay abreast of what's happening with developments.

The Chair: *Merci, Madame.*

We will just ask the committee members to note that the deadline for amendments is 5 o'clock Wednesday, June 6, and we will do clause-by-clause on Bill C-33 on Thursday.

Now we continue with the talented Mr. Pacetti. Mr. Pacetti, it's over to you.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): You say that with a serious face.

I have just two quick questions. I just want to know why this bill has been hanging around since 1999. I understand there have been press releases since 2001 and so forth. Could you answer that question quickly?

Mr. Gérard Lalonde: Well, the bill is a combination, as I mentioned, of a couple of proposals. You started off with the 1999 budget, in which we announced—we being the government of the day—the changes dealing with FIEs and NRTs. That budget did not give details of what those changes would be. It's a very complicated area, as you'll see from the size of the portion of the bill—approximately half the bill, and it's a pretty big bill to start off with—that deals with those.

Proposals were put out in 2000 for consultation. They generated a lot of commentary. Again, in 2001, another draft was put out. There was another draft in 2002. The bill was eventually tabled as a notice of ways and means motion in 2003, but then because of events in Parliament, that bill did not proceed. Eventually there was a different government that took the reins. The different government had its agenda to propose, and it did so. It did so in those budgets, and it also took notice of these outstanding amendments and put them forward in this bill.

• (1140)

Mr. Massimo Pacetti: Is there any similar type of legislation hanging around out there that would affect the subsequent budgets, like 2000, 2001, and so forth?

Mr. Gérard Lalonde: I think this is probably the oldest piece. Again, the technical amendments that show up here are outside the budget.

Mr. Massimo Pacetti: I understand that. After 1999, the subsequent budgets after that date, are there technical amendments to be made there as well?

Mr. Gérard Lalonde: There are some proposals outstanding that aren't that old, but there is some question about the deductibility of interest expense that still remains open.

Mr. Massimo Pacetti: From what year?

Mr. Gérard Lalonde: I can't recall offhand. I think it was about 2003.

Mr. Massimo Pacetti: I have just a quick question. Would any of the items in this legislation affect the tax treaties we have with other countries?

Mr. Gérard Lalonde: Do you mean in terms of forcing us to amend the treaties?

Mr. Massimo Pacetti: Yes.

Mr. Gérard Lalonde: No.

Mr. Massimo Pacetti: Great.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Pacetti.

Monsieur St-Cyr.

[Translation]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Thank you, Mr. Chairman.

I would like to take this opportunity to welcome our clerk back from her vacation, on behalf of all members. I hope she had a wonderful time. I do not know if her return has anything to do with the beautiful unanimity that we enjoy today in this committee. Let us hope it will last.

Returning to our subject, I have a question that deals not so much with the bill as such, but more with tax avoidance in general. In previous meetings of this committee we had several presentations which discussed extensively the issue of double dipping. Members of the committee were told how this scheme works and what kinds of strategies are being used.

Officials also talked about a method called tower structure in English. I do not remember the word in French. Could one of you explain this instrument and tell us how it allows, on a practical level, a corporation to reduce the tax it pays?

[English]

Mr. Gérard Lalonde: Wally, that sounds like something that would just please you.

Mr. Wallace Conway: The double-dip structures and the tower structures that you are referring to are culminated in the rules dealing with foreign affiliates, which have nothing to do with this bill. Under a tower structure or a double-dip structure, basically, interest paid by one foreign affiliate to another—a foreign affiliate of a taxpayer—is treated as being active business earnings. The reason for that is that the interest expense paid reduces the active business earnings of one foreign affiliate, so we increase the active business earnings of the other foreign affiliate to keep the affiliates' group active business earnings flat, at the same amount. That's the reason for the provision.

The effect of that provision is being used by Canadian corporate groups to essentially move income out of a high-tax jurisdiction into a low-tax jurisdiction. That really doesn't affect the Canadian treasury; that affects foreign treasuries. From that point of view, it's not offensive from a Canadian tax policy point of view.

[Translation]

Mr. Thierry St-Cyr: With regard to double dipping, I understand that it is legal, that it is presently allowed by our legislation, but nevertheless it is a structure that has the sole objective to minimize taxes paid in Canada and other jurisdictions that have a high tax rate. I am just trying to understand how these schemes work. I understand double dipping pretty well but there is also the method called tower structures.

Could you explain how corporations use this scheme to minimize their taxes. How does it work?

•(1145)

[English]

Mr. Wallace Conway: You want to know how they use it to reduce tax?

What they would do is set up a finance company in a country that has a low tax rate. They would loan money to a foreign affiliate in a

country with a high tax rate. The high-tax-rate company would pay interest to the low, so they would be reducing income at a high tax rate and paying tax at a low tax rate. That's how they save the foreign tax.

[Translation]

Mr. Thierry St-Cyr: This was the double dipping issue. As for the tower structures that were discussed, they involved Canada and the United States. They are based on the fact that an affiliate corporation is not treated the same way in Canada and in the United States. This was explained in documents that were provided to the committee. Do you know about this structure?

[English]

Mr. Wallace Conway: So you want to know how the tower structure works?

[Translation]

Mr. Thierry St-Cyr: Yes.

[English]

Mr. Wallace Conway: In the United States they have certain entities that can be treated either as a corporation or as a partnership or a disregarded entity. In certain cases it's advantageous to set up one of these entities that is treated as a corporation for Canadian tax purposes but is treated as a disregarded entity or a flow through for U.S. tax purposes. In so doing, basically you could finance this foreign entity with a loan in a Canadian partnership or a U.S. partnership, which gives you a deduction in Canada. That hybrid entity will loan to another U.S. company. That hybrid entity would be a corporation for Canadian purposes, and that would be treated as active business earnings for Canadian purposes. But for the U.S., if you merge the two companies, there's no interest and no expense.

[Translation]

Mr. Thierry St-Cyr: In the end, it works about the same way.

[English]

The Chair: We'll continue now with Mr. Wallace.

Mr. Mike Wallace: Thank you, Mr. Chair. I have two really quick questions.

First, do you have an answer to Mr. Dykstra's question on the rollover piece?

Mr. Gérard Lalonde: Yes, I do. It's to be found in the amendments in proposed subsection 146(8.1) of the act dealing with a deemed receipt of a refund of premiums. In that provision, when a person dies having money in an RRSP and the RRSP is collapsed and paid out to a beneficiary, if that beneficiary is a spouse or common law partner of the deceased or a financially dependent child, those recipients, when they receive the RRSP balance, have to include it in income, but they can in turn roll it over into another RRSP or a qualified annuity. Those provisions have existed for a while, but the difficulty that was found was that for many financially dependent children, the actual beneficiary of the deceased that would be obtaining the refund of premiums from the RRSP was not the child, for obvious reasons, but rather a trust in favour of the child. These amendments ensure that such a trust for the benefit of a financially dependent child will be eligible for the rollover from the RRSP to a qualifying annuity for the benefit of that child.

Mr. Mike Wallace: My second and final question is based on the report from the Library of Parliament. It says, under foreign investment entities, that the proposed foreign investment entity rules under Bill C-33 would apply to all Canadian taxpayers—and then in brackets—except new immigrants to Canada.

Is that true, and what's the definition of a new immigrant? Does that change after they've been here for a number of years?

• (1150)

Mr. Gérard Lalonde: Yes, it is true. There is a provision in there for people who come to Canada having trusts in their home jurisdiction. If they move to Canada, all of a sudden these rules would apply to those as being non-resident trusts, for example. There is a provision in there for a five-year adjustment period.

Mr. Mike Wallace: Okay, thank you.

Those are my questions, Mr. Chair.

The Chair: *Merci.*

To conclude, Madam Wasylycia-Leis is going to have some questions.

Ms. Judy Wasylycia-Leis: Thank you. This is going so fast I can't keep up.

I have a couple of questions.

I'd like to take you back to the whole issue that went through to the Supreme Court regarding the Bronfman family and the challenge they faced after moving \$2 billion out of the country. There was a group out of Winnipeg through Choices, a social justice coalition, and an individual by the name of George Harris, who took this right through to the Supreme Court. It didn't rule in his favour, but I think the court made very serious statements around problems within the finance department over this kind of development.

Is Bill C-33 and its predecessors a response to that kind of situation?

Mr. Gérard Lalonde: I'm not going to respond to any specifics of any particular family in Canada. However, there was an issue a few years ago and it effectively dealt with an issue surrounding the emigration of trusts, and the Income Tax Act was amended some time ago. I think it was effective 1999. I could be corrected on that, but it was effective some number of years ago to deal with that situation. This deals with something else.

Ms. Judy Wasylycia-Leis: It's no longer possible for a company or a family within this country to decide they can avoid paying taxes by setting up an entity, either an FIE, an NRT, or whatever. You're saying that was looked after in the past and this bill goes another step in that direction.

Mr. Gérard Lalonde: Yes. The other issue had to do with taxpayer emigration, and that was dealt with before, essentially providing for a deemed disposition of assets and recognition of tax at the time of departure from Canada. This deals with Canadians who are and remain resident in Canada but who have invested funds in foreign investment entities or have contributed funds to non-resident trusts.

Ms. Judy Wasylycia-Leis: It's clear there are some corporations and individuals who will pursue very aggressively any kind of way to avoid paying taxes. The bottom line for them is, what are the odds of getting caught? My question is, what will be the impact of Bill C-33 on those odds?

Mr. Gérard Lalonde: The odds of getting caught imply tax evasion rather than tax avoidance, I think, but maybe I'm getting that wrong.

These provisions don't deal with tax evasion. If what you are doing is hiding money offshore and not reporting it, that's already against the law. These provisions don't deal with that. That's what the Canada Revenue Agency does in terms of trying to track that down.

In the 2007 budget we have proposed other measures dealing with tax information exchange agreements with other countries and with the effects of not having either a treaty or a tax information exchange agreement, otherwise known as a TIEA. The proposals are very interesting in that they offer a carrot, if you will, to encourage countries to enter into TIEAs. They get effectively some of the same benefits they would have had they entered into a tax treaty. On the other hand, if they don't enter into the TIEA, then foreign affiliates of Canadian corporations that carry on business in those countries would have to report their income in Canada on an accrual basis.

Ms. Judy Wasylycia-Leis: Aren't we splitting hairs when we talk about the differentiation between tax evasion and tax avoidance? If we still have tax evasion, which is something that's legal, it still means we have lost revenue. We have taxes that should be coming to this country, that are not coming, and therefore there's a weakness in the laws. It may not be illegal, but it is wrong.

• (1155)

Mr. Gérard Lalonde: I'm not trying to avoid your question, but I think you may have used incorrect words. To correct the record, tax evasion is illegal and tax avoidance is legal.

Ms. Judy Wasylycia-Leis: Sorry, yes, reverse it. But aren't we splitting hairs in terms of differentiating between the two? Is all of this in the interest of trying to get more of the taxes that rightfully belong in this country to stay in this country?

Mr. Gérard Lalonde: I certainly didn't intend to split hairs. I thought I was responding to your question. If your question was whether these proposals in this bill will clamp down on tax avoidance through various interesting structures, yes, they will.

The Chair: Thank you very much, sir.

Thank you, Madam Wasylycia-Leis.

Mr. Pacetti.

Mr. Massimo Pacetti: I have a point of order. I see around the table there's a willingness...the fact that this legislation has been around and it is on technical amendments. I don't think there's anybody here who is going to table amendments. Can we go directly to clause-by-clause and expedite this bill?

The Chair: There will be amendments and we'll deal with them on Thursday.

We're adjourned.

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