



House of Commons  
CANADA

## Standing Committee on Finance

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FINA • NUMBER 054 • 3rd SESSION • 40th PARLIAMENT

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EVIDENCE

**Monday, December 13, 2010**

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**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

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• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order. This is the 54th meeting of the Standing Committee on Finance.

Our orders today are pursuant to Standing Order 108(2), a study of tax evasion and offshore bank accounts. This is our first meeting on this topic.

To start this study off we have two departments here with us today. We want to thank them for coming in this afternoon. We have three officials from the Canada Revenue Agency and we have two officials from Finance Canada. Thank you for being with us here, ladies and gentlemen.

We do have opening remarks from the Canada Revenue Agency. I believe Ms. Ricard will be presenting on behalf of CRA, and then Finance will be available for questions.

Please begin your presentation.

**Ms. Lyse Ricard (Deputy Commissioner, Canada Revenue Agency):** Thank you, Mr. Chair, for the opportunity to discuss the Canada Revenue Agency's ongoing efforts to combat aggressive international tax planning and tax evasion. My remarks will be in English and in French.

The CRA is committed to protecting the integrity of the Canadian tax system by combatting tax avoidance and tax evasion on all levels. Briefly, I would like to outline—

**The Chair:** Excuse me, the interpreter is saying the sound system is not working.

Do you want me to suspend?

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1535)

**The Chair:** We're back to order. I apologize for that. Please begin your presentation again.

**Ms. Lyse Ricard:** Thank you, Mr. Chair, for the opportunity to discuss the Canada Revenue Agency's ongoing effort to combat aggressive international tax planning and tax evasion.

The CRA is committed to protecting the integrity of the Canadian tax system by combatting tax avoidance and tax evasion on all levels. Briefly, I'd like to outline what we mean when we refer to tax avoidance and tax evasion.

Tax avoidance involves minimizing tax by contravening the object and spirit of the law but not the letter of the law. It can lead to significant financial penalties in interest. Tax evasion involves a deliberate underreporting of tax payable—for example, by concealing income or assets and making false statements. Tax evasion is a crime. So in addition to being reassessed for taxes, interest, and penalties, taxpayers who are convicted could spend time in jail and pay court-imposed fines of up to 200% of the tax they sought to evade.

[Translation]

The key to the CRA's domestic and international strategy to prevent aggressive tax planning and tax evasion, in addition to active enforcement, is to make it easy for taxpayers to comply with their tax obligations, while ensuring that the consequences of avoiding or evading tax are serious.

The problem of hiding income and assets in foreign jurisdictions is a serious one for many countries around the world, including Canada.

When Canadians don't pay their taxes, they take resources away from health care, child care, employment insurance, pensions and other programs. Companies that don't pay their taxes gain an unfair advantage over businesses that do.

We expect taxpayers to operate in good faith. If they enter into financial transactions where the express purpose is to avoid or evade taxes, we take action. And the consequences are serious.

[English]

Canada is not the only country combatting international aggressive tax planning and tax evasion. These are global problems.

Along with our partners in the Organization for Economic Co-operation and Development, Canada is a leader in setting and implementing internationally agreed-upon tax standards. The G-20 leaders, including Canada, announced an end to the era of bank secrecy in April 2009. They publicly committed to taking action against uncooperative jurisdictions, including tax havens.

Canada's close relationship with its international partners exemplifies how countries can use information exchange to uncover information relating to aggressive international tax avoidance schemes and information to combat tax evasion. This close relationship is founded upon Canada's network of 87 tax treaties, one of the largest in the world, which allows us to exchange information with other countries.

We are working hard to increase the flow of information by negotiating new tax information exchange agreements, including updating existing treaties and enhancing administrative arrangements with other countries. The CRA has increased the resources devoted to international tax issues. In the last five years, the number of full-time employees working in the CRA aggressive tax planning area has doubled, and the number of full-time employees working on international audit is up by 44%.

We have staff centres of expertise across Canada with senior audit professionals and specialists in international tax and tax avoidance. Since 2006 we have audited more than 6,700 cases, identifying \$3.5 billion in unpaid taxes through our efforts to combat aggressive international tax planning. In 2009 alone, we uncovered \$1 billion in unpaid tax involving international activities.

The CRA also combats tax avoidance in the courts. The "unnamed person" requirement is a judicial authorization that allows the CRA to obtain information. We also use it for tax avoidance schemes that rely on bank secrecy in foreign jurisdiction to hide income or ownership and control of assets. Using the unnamed requirement, we are able to require that a person or a company provide information regarding an unnamed third party. The CRA has used the unnamed requirement in many domestic and international cases.

Education is also an important element of our strategy. We use community visits, speaking engagements, publications, and our website to ensure that Canadians are aware of the consequences of evasion.

• (1540)

[Translation]

The CRA has been successful in communicating its message about those consequences. That is an important contributor to the significant increase in the number of taxpayers coming forward with previously undisclosed assets through the Voluntary Disclosures Program (VDP).

When taxpayers come forward through the VDP, and their disclosures meet the criteria requirements required to qualify for the VDP, they are still required to pay all taxes owing, plus interest.

The number of disclosures through the VDP has steadily increased over the past few years. Last year, the CRA received almost 3,000 disclosures resulting in \$138 million in unpaid tax revenue, and the results so far this year show a continued increase.

Identifying and addressing international aggressive tax planning and tax evasion is a significant undertaking for the CRA. It requires a long-term commitment to gathering intelligence, building international partnerships and educating Canadians about the consequences of tax evasion and aggressive tax planning.

Each year, the CRA increases its understanding of tax avoidance and evasion schemes, the institutions involved in them and the best ways to bring them to an end.

As taxpayers become increasingly aware of the CRA's expertise and success in this area, the CRA moves closer to its goal of compelling all taxpayers to comply voluntarily with Canada's tax laws.

Thank you again, Mr. Chair, for providing this opportunity to discuss our ongoing efforts to combat aggressive tax planning. We would be pleased to answer any questions you may have.

**The Chair:** Thank you for your presentation.

We will begin with Mr.—

[English]

I'm sorry, I was told that Finance does not...

Does Finance have a short opening statement?

**Mr. Brian Ernewein (General Director, Tax Policy Branch, Department of Finance):** I'd like to introduce myself and my colleague, if I may, and we could make a couple of remarks, if the committee wishes to have us do so.

**The Chair:** Please do.

I'm sorry; I thought you did not have one.

**Mr. Brian Ernewein:** My name is Brian Ernewein. I'm the general director in the tax policy branch at the Department of Finance. I'm joined by my colleague, Alain Castonguay, who's the head of our tax treaty and tax information exchange agreement section at Finance.

Thank you very much for the opportunity to appear before the committee today to discuss the subject of offshore bank accounts held by Canadians, the actions being taken by Canada to combat international tax evasion, and Canada's involvement regarding the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Since 1996, the OECD project on harmful tax practices, with Canada's participation, has identified a lack of transparency and of exchange of tax information as undermining the ability of tax administrations to enforce their tax laws and to combat international tax evasions.

By way of context for this, a number of jurisdictions have maintained bank secrecy laws that made it an offence for any bank to share information about its clients with anyone, including foreign governments. Such laws can encourage Canadians to use banks in these jurisdictions either to hide money or to earn investment income that they don't intend to report in Canada. This, of course, is fundamentally unfair to the vast majority of Canadians who report all of their income and pay their taxes.

In 2000, OECD and non-OECD countries, including Canada, formed a Global Forum on Transparency and Exchange of Information to promote the OECD standards of transparency and effective exchange of tax information—what we refer to as the OECD standard.

• (1545)

[Translation]

Basically, the OECD standards with regard to bilateral agreements posit three simple ideas. First, a country should provide another country with tax information when such information is pertinent to the administration of tax laws in the other country.

Second, the exchange of tax information should not be covered by any domestic legislation that guarantees tax secrecy.

Third—and this applies particularly to countries that do not impose any taxes—a country should provide tax information notwithstanding the fact that it might not have any domestic interest in the requested tax information.

[English]

The OECD standards implemented through the conclusion of tax treaties and tax information exchange agreements—TIEAs, as we call them—enable tax authorities to access information relevant to their tax matters in order to better enforce and administer their tax laws and to help prevent international tax evasion. The Global Forum drafted the text of a TIEA that has since been used by most jurisdictions, including Canada, as a model to negotiate bilateral tax information exchange agreements.

The turning point in the implementation of the OECD standard was the 2009 G-20 summit in London. In April 2009, the leaders of the G-20 stated that they stood ready to take action and deploy sanctions to protect the public finances and financial systems of their countries against jurisdictions and tax havens that have either not committed to the OECD standard or have failed to implement it.

Since that time, the pace of negotiation of TIEAs and of protocols to incorporate the OECD standard in tax treaties has increased dramatically. We've checked back, and as of April 2009 there were 65 TIEAs and protocols that had been negotiated internationally. As of October of this year, that number is above 560.

What are we doing to combat international tax evasion here in Canada? In Budget 2007, the Government of Canada announced a policy that introduced incentives to have non-treaty countries enter into TIEAs with Canada that include the OECD standard on tax information exchange. The 2007 budget also stated as a government policy that all new treaties and revisions to existing treaties would also have to include the new standard for tax information exchange.

To date, we've signed 11 TIEAs, and we hope all of these will enter into force next year so that CRA can start to rely on them to obtain information from the jurisdictions they cover. We've also been involved in TIEA negotiations with 14 other jurisdictions, and we hope to conclude negotiations and seek approval of these TIEAs so that they may be signed as soon as possible.

Of Canada's 87 tax treaties in force currently, all but seven meet the current OECD standard regarding exchange of tax information.

Of those seven that do not, we've recently signed a protocol with one of them—that is Switzerland—to bring the new standard into play and have commenced negotiations or renegotiations with each of the other six to update the exchange of information provisions in those treaties so that they meet the OECD standard. Again, we hope to conclude negotiations and seek approval of those revised treaties as soon as they can be signed, and we hope that signature comes as soon as possible.

Finally, there are other provisions in our income tax laws, either in force or currently proposed, that can be important tools in dealing with international tax avoidance. These include our foreign reporting rules, the taxation of investments in foreign investment entities, proposals to tighten our non-resident trust regime, and new reporting obligations in the last budget for those who participate in aggressive tax transactions.

I won't review the details of any of those rules in my opening remarks, but perhaps there's an opportunity to discuss them during the questions today.

Thank you.

**The Chair:** Thank you for your presentation.

We'll begin with Mr. Szabo for seven minutes.

**Mr. Paul Szabo (Mississauga South, Lib.):** Thank you.

Thank you to all the representatives for Finance and CRA.

The statement was that the number of full-time employees working on international audits is up by 44% since 2006. That's pretty substantial. I recall that some time ago CRA audits related to anonymous phone calls or tips from the Canadian public were actually farmed out to accounting firms or to accountants or other investigators who could do a lot of the work, and the recovery rate was 1,700% return for every dollar spent by engaging outside persons, not full-time people.

Are you aware of that? And why is it that we have to have the full-time people when there are so many people already engaged in the process internationally?

• (1550)

**Ms. Lyse Ricard:** If I understand your question, you're asking why we hire full-time people.

I'm not certain I understand your question.

**Mr. Paul Szabo:** That's right, you don't.

CRA was farming out to agencies—to accounting firms, to people who had knowledge of it, who were in the business—to do the audits on a client basis: “Here's somebody. Go and have a look at it.” When I was on the finance committee last, back in the late 1990s, the return reported was 1,700%.

That makes a lot of sense to me, compared with having full-time employees.

Maybe you would understand the question this way. You have this 44% increase in full-time employees. What return have you received on that increase in the number of employees, then?

**Ms. Lyse Ricard:** Is it returns in terms of how much tax revenue they recover per person that is your question?

**Mr. Paul Szabo:** Why don't we try something else?

**Mr. Richard Montroy (Deputy Assistant Commissioner, Compliance Programs Branch, Canada Revenue Agency):** I was going to attempt to answer the first part of your question, Mr. Chair.

If I understand the question correctly, it seemed to infer that we were farming out to the outside public the audit workload that the CRA would undertake. To my knowledge, we have never farmed out auditing activities to practitioners. The CRA audits and—

**Mr. Paul Szabo:** The minister at the time was Jane Stewart, and she announced it in the House. It was a billion-dollar recovery during the year that she referred to. You can check back on that, but it was happening and it makes a great deal of sense.

With regard to the 1,700 accounts that came out in the Swiss and Liechtenstein issue, what is the approach that the government is using with regard to those accounts, how long is it going to take, and what kinds of returns can be expected on pursuing those accounts?

**Mrs. Lucie Bergevin (Director General, International and Large Business Directorate, Compliance Programs Branch, Canada Revenue Agency):** I can try to answer that. The audit process for any of those audits is long. It's a long process just because of the nature of the audit we're doing. The first step is to do a risk analysis. When we got information from Liechtenstein, we did a risk analysis and narrowed down where the risk was and did some audits.

If I'm not mistaken, we did 26 audits as of June 2010. I think as of October we're up to 30 audits, and we're still doing some. But it is a long process simply because, as you can imagine, it's information from abroad. It takes longer to get information from abroad. The information we get is also not complete. Often we don't have the social insurance number or the address, so we need to match this with our system.

**Mr. Paul Szabo:** But again, you have no idea how much money is spent to do this and what kind of return we could expect to get back from it?

**Mrs. Lucie Bergevin:** We don't speculate on the amounts we can get.

**Mr. Paul Szabo:** On the voluntary disclosure program, when was the process developed and when was the last time it was reviewed in terms of how those cases are conducted?

• (1555)

**Mr. Richard Montroy:** The voluntary disclosure program originated in 1973. It has existed in that form for a long time. We have made changes over the years to the program. As recently as this past year, we looked to make sure that our program continued to meet its objectives.

As Madame Ricard pointed out in her opening statement, the numbers of voluntary disclosures have continued to increase in the

last few years—not only the disclosures but the amount of money the government collects through the voluntary disclosure program. It's a very successful program. We feel that the reason for the numbers having increased for VDP is due to the efforts of the government on such things as the tax exchange information agreements, the various other measures we've undertaken—

**Mr. Paul Szabo:** Okay. The point I want to get to before my time runs out is that people can do this on an anonymous basis, which isn't the same as if people are having their tax returns audited and have to sit there and provide the details and show their face.

Brian Mulroney got a voluntary disclosure situation and landed up having to pay a lot less tax than any other Canadian probably would or has in history when found to have not declared income. That's why I raise the process. Have you considered whether or not the situation of Mr. Mulroney should warrant a review of the process under the voluntary program?

**The Chair:** Just give a very brief response, please.

**Mr. Richard Montroy:** The voluntary disclosure program was reviewed this year, as I pointed out, and we feel that it's a very successful program. When someone comes to the CRA, they come on a no name basis, but they have to provide all the information needed. Once we agree to the voluntary disclosure, then the name of the person is given to us and we undertake the examination of the file to ensure that the information we have is correct.

**The Chair:** Thank you.

*Monsieur Paillé, s'il vous plaît.*

[Translation]

**Mr. Daniel Paillé (Hochelaga, BQ):** If you will, I would like to follow up on that. There were some rather startling statements in the opening remarks of the Canada Revenue Agency.

I will begin on page 5. It states that "since 2006, the CRA has audited more than 6,700 cases, identifying approximately \$3.5 billion in unpaid tax..."

If my arithmetic is right, if you divide \$3.5 billion by 6,700 cases, that gives you an average of approximately \$525,000 per case.

Then Mr. Montroy said that your Voluntary Disclosures Program was quite effective, that it was a huge success. The 3,000 disclosures helped you recover \$138 million. That amounts to \$46,000 per case, or 11.5 times less than the previous amount.

Taxpayers are not asked to file voluntary tax returns; they are required to do so. And yet here, you pat yourselves on the back, boasting that you recovered an incredible \$46,000 on average per voluntary disclosure. However, in the same text, you state that when cases are prosecuted and analyzed, when you go full out, you can recover \$525,000, or 11.5 times more.

Jean Drapeau already tried to impose a voluntary tax to pay for the Olympic Games, or Expo 67, I forget which it was.

When dealing with tax matters, I do not think we should be using voluntary measures; we should be prosecuting people more.

I would like to hear your comments on that.

**Ms. Lyse Ricard:** We cannot calculate averages the same way when dealing with the Voluntary Disclosures Program. Some disclosures were not linked to unpaid tax, but rather to amounts or assets held abroad, which also must be declared.

• (1600)

**Mr. Daniel Paillé:** You talk about \$138 million in tax revenue. For a tax expert, a tax revenue is a tax or a duty.

**Ms. Lyse Ricard:** Yes.

That said, of the 3,298 disclosures received in 2009-2010, some of those are not disclosures for which Canadians would have had to pay tax. We also have a mandatory return for offshore assets when a voluntary disclosure is not made. However, I do not have the numbers with me.

**Mr. Daniel Paillé:** I am still quite astounded that people can file tax returns, but there is no tax. That must be quite rare, compared to the number of people who report income and do not have to pay tax.

**Ms. Lyse Ricard:** That is because the amount is not income, but rather an asset.

**Mr. Daniel Paillé:** Coming back to your opening remarks—I apologize, but some things you said struck me—on page 2, you said that people could be reassessed for taxes and have to pay interest and penalties, and "taxpayers who are convicted could spend time in jail."

People often say that the rich do not pay any taxes, that they try to avoid doing so as much as possible. They might have to pay fines, but they have the means to do so. That is like someone who says that he can drive 200 km/h on the highway because he can afford to pay the ticket. And in this case, taxpayers could spend time in jail.

How does this all work? When does the Canada Revenue Agency decide to prosecute? Have people been brought to court? That is what we really want to know. Is someone going after those people?

**Mr. Richard Montroy:** Thank you, Mr. Chair.

That is a very good question because it implies a number of—

**Mr. Daniel Paillé:** It is the answer that I am interested in.

**Mr. Richard Montroy:** That is an issue that pits civil law against criminal law, in that tax assessments are based on the balance of evidence. If the government wishes to engage criminal proceedings, it must prove the case beyond any reasonable doubt.

**Mr. Daniel Paillé:** I know that. Mr. Mulcair will probably insist on that, but this is what I want to know: How does the relationship work between the Department of Finance, which decides to tap into the tax base, and the Revenue Agency, whose mandate is to recover the money? If it does not find any, does it then engage in proceedings? That is what I want to know. When is the Department of Justice or the Attorney General asked to engage proceedings?

**Mr. Richard Montroy:** Thank you.

Mr. Chair, when we receive a file, we assess the evidence and try to obtain the best possible proof. At one point, we consult with our colleagues at the Department of Justice to ensure that we have the evidence needed to support our case and engage criminal proceedings. It is only after we have had discussions with the Department of Justice and the director of public prosecutions that we

decide whether or not we have enough evidence to launch criminal proceedings.

**Mr. Daniel Paillé:** I have a question about that. In 2009, France announced that some banks would have to shut their tax havens, or rather their branches situated in tax havens. That same year, the five major Canadian banks had 79 branches in tax havens, according to their own annual reports.

Just recently, because of the French decision—

**The Chair:** Please ask your question.

**Mr. Daniel Paillé:** —BNP Paribas announced that it was selling its operations in Panama, the Grand Cayman Islands and Bahamas to Scotiabank of Canada. When will Canada do the same, i.e., shut down bank subsidiaries in known tax havens, rather than simply buying into those places?

[*English*]

**The Chair:** *Merci.*

Just give a brief response, please.

[*Translation*]

**Mr. Brian Ernewein:** I simply want to say that is not our proposal.

[*English*]

We are seeking, through the mechanism I've already described, to deal with the issue of tax evasion through more transparency, specifically through exchange of information agreements that allow Canada to collect information that allows CRA to conduct its audit and enforce its taxes. It's not proposed to impose sanctions such as those imposed by France, or at least that has not been part of the objective to date. The objective has been to try to put transparency in place, so that isn't an issue.

• (1605)

**The Chair:** Thank you. *Merci.*

*Monsieur Généreux, s'il vous plaît, vous disposez de sept minutes.*

[*Translation*]

**Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC):** Thank you, Mr. Chair.

First off, welcome to the committee. I too am interested in the comments you made, Ms. Ricard, in your opening remarks. I would like to come back to page 2, where you make the distinction between tax avoidance and tax evasion. In the interest of the people who are watching—because these meetings are being broadcast—I would like to make sure I understand the distinction, especially with regard to the law.

In your text, you state "the letter of the law." What do you mean by "the letter of the law," in the case of tax avoidance and evasion?

**Mr. Richard Montroy:** There is a difference between tax evasion and tax avoidance. Tax avoidance occurs when the provisions of the law are used, but perhaps in an unintended way. That is why, in 1988, the Department of Finance gave us the authority, through the anti-avoidance rule, to investigate transactions that are not necessarily in keeping with the object and spirit of the law.

**Mr. Bernard Généreux:** That means that you assess people's good faith in order to distinguish between the two.

**Mr. Richard Montroy:** Yes, good faith as well as documentary evidence and transactions.

With tax evasion, there is a clear and unequivocal intent to commit fraud, i.e., actions are taken to ensure that expected results are achieved.

**Mr. Bernard Généreux:** Therefore, you make that distinction following an audit of each case. You said that you have audited more than 6,700 cases since 2006.

I am pleased to see that our government has put in place additional means, and I suppose that has helped you increase the number of cases. Has the number of cases you have audited increased significantly in recent years, given the additional amounts and resources we have invested?

**Ms. Lyse Ricard:** For example, in 2005-2006, there were 278 cases; in 2009-2010, there were 1,251.

**Mr. Bernard Généreux:** That is a substantial increase.

**Ms. Lyse Ricard:** Audits, of course.

**Mr. Bernard Généreux:** Is that because additional resources were made available to your department?

**Ms. Lyse Ricard:** Yes. Would you like to add anything, Ms. Bergevin?

**Ms. Lucie Bergevin:** The funding we received allowed us to expand our coverage of transfers and aggressive tax planning activities. It has allowed us to conduct more audits, and therefore achieve better results.

The funding that we obtained also allowed us to establish centres of expertise, which are research centres that allow us to build up an information system in order to achieve better results.

**Mr. Bernard Généreux:** Under the current legislation, does that mean that the amounts you recovered can be reinjected into such activities?

**Ms. Lucie Bergevin:** Yes.

**Mr. Bernard Généreux:** Therefore, the amounts do not go back into the department's consolidated fund?

**Ms. Lucie Bergevin:** Yes, they are put into the consolidated fund.

**Mr. Bernard Généreux:** But you can tap into those amounts.

**Ms. Lyse Ricard:** No. Our budget is allocated, and everything we recover is put into the Consolidated Revenue Fund. Over the years, we have received additional funding that has allowed us to increase our audit and research resources.

**Mr. Bernard Généreux:** In your opening remarks, on page 6, you state and I quote:

The CRA also combats tax avoidance in the courts. The unnamed persons requirement is a judicial authorization that allows the CRA to obtain information.

How does that requirement work exactly?

**Mr. Richard Montroy:** Thank you, Mr. Chair.

The unnamed persons requirement is a tool that is in the Income Tax Act to help obtain information, whether from individuals or third

parties. We can recover money from taxpayers who might have funds or information outside of Canada.

The classic example would be when we make a request to a financial institution regarding a third party. The institution gives us the names and amounts of individuals' funds. It is with that information that we can conduct research and open audits.

•(1610)

**Mr. Bernard Généreux:** Is that a productive way to catch people who want to avoid paying taxes? I imagine that you are able to recover substantial amounts, no?

**Mr. Richard Montroy:** Absolutely. In recent years, we have been increasingly relying on that tool to obtain information from financial institutions. I would say that those institutions have been of great help to us until now by giving us the requested information, and that information has allowed us to undertake a number of audits. In fact, that is one of the reasons why the number of audits, and the amount of money we have collected as a result of those audits, has increased in recent years.

**Mr. Bernard Généreux:** Is there a link between that and the fact that last year, in January I believe, Minister Blackburn received a list of clients or bank account numbers in Switzerland?

**Ms. Lucie Bergevin:** Those are two different issues. However, the unnamed persons requirement has allowed us to gain a much better understanding of tax schemes and the persons involved. Based on that, we can request other information to better understand who the players and promoters are.

**Mr. Bernard Généreux:** And how was the list of names Minister Blackburn was given last year obtained?

**Ms. Lucie Bergevin:** That was, rather, through exchanges with our international partners.

**Mr. Bernard Généreux:** Very well.

**Ms. Lyse Ricard:** Thanks to our treaty with France, he was able to ask for a list.

**Mr. Bernard Généreux:** Will there be consequences for the people whose names were on that list?

**Ms. Lyse Ricard:** We have obtained the list and will undertake our audits.

**Mr. Bernard Généreux:** What is the average time allotted for an audit? How does that work? I suppose that an audit can last several years.

**Ms. Lucie Bergevin:** I would like to explain the process in a few words. First, we conduct a risk assessment after having obtained the information. We compare the information obtained with that in our systems. The first challenge is to ensure that we are dealing with the right individuals, because we often have very little information, not even their social insurance number or address. That is our first challenge.



We then contact the taxpayer. For example, we will send out a questionnaire. That might be one of the methods used. We rarely receive any cooperation from these individuals. This is when we might have to use other existing tools. Therefore, obtaining information is quite time-consuming, especially if it is found overseas.

**The Chair:** Thank you.

Mr. Mulcair, you have the floor, please.

**Mr. Thomas Mulcair (Outremont, NDP):** Thank you very much, Mr. Chair.

As time is short, I will let you decide among yourselves who can best answer my questions. I have several questions for you.

Would you have an idea of the overall size of the loss of revenue for the Canadian treasury, between what was due in taxes and what is being stowed away in foreign countries? The Americans estimate approximately \$100 billion. What would the estimate be for Canada?

**Ms. Lyse Ricard:** At the agency, we never tried to estimate the amount. It could be very difficult, it could take a lot of our resources, because we are looking for undeclared income and hidden unpaid taxes.

**Mr. Thomas Mulcair:** Nevertheless the United States, Mexico, Sweden and the United Kingdom do publish an estimate. Why can they do it and why can you not do it?

**Ms. Lyse Ricard:** I have nothing to show you that our colleagues in the United States have published—

**Mr. Thomas Mulcair:** Yes, yes they did publish an estimate: \$100 billion. That is their figure.

**Ms. Lyse Ricard:** I saw in the literature that several organizations in the United States have published estimates, including—

**Mr. Thomas Mulcair:** The estimate I am talking about was published by the U.S. Department of the Treasury. These are not individuals, it is not an NGO, these are not lobbyists, it is the U.S. Department of the Treasury.

**Ms. Lyse Ricard:** I do not know if these people from the U.S. Department of the Treasury are the colleagues of our colleagues in the Department of Finance.

[English]

**Mr. Thomas Mulcair:** Mr. Ernewein?

**Mr. Brian Ernewein:** No, we don't have those estimates. It's possible to create estimates using assumptions, but by its very nature the amount of tax evaded is a very difficult thing to determine. It's by definition that which you do not know. So one could make assumptions, as I've said, to estimate what some call this tax gap—

**Mr. Thomas Mulcair:** Well, let's make an assumption together about our tax gap.

The Americans are estimating theirs at \$100 billion. Is it reasonable to assume that ours could be in the \$10 billion range?

•(1615)

**Mr. Brian Ernewein:** Again, we can run arithmetic together, Mr. Chairman, but it would all be based on assumptions. If you wanted to say 10% of what the Americans—

**Mr. Thomas Mulcair:** Why can the U.S. Treasury make that estimate and you can't? I just don't understand.

**Mr. Brian Ernewein:** Frankly, I'm not familiar with the U.S. estimate, or that it's a Treasury estimate, or how it's framed or constructed.

[Translation]

**Mr. Thomas Mulcair:** In 2009, Barbados, Bermuda and the Cayman Islands received direct investments from Canada amounting to \$78.4 billion. This is \$13 billion more than our total direct investment in the United Kingdom, which is the second most important country after the United States. It is one of the most important places.

Can they tell us if that did not set off an alarm bell for them, telling them that we were facing an enormous attempt at tax evasion?

[English]

**Mr. Brian Ernewein:** No, I don't think it necessarily points to that at all. I think there's a large amount of investment made by Canadian multinationals in a number of jurisdictions, including Barbados, Bermuda, and others, and it's reflected by the investment of other countries as well. These places are important destinations for investment. Bermuda is a noted insurance locale; Barbados has been a long-standing treaty partner with Canada, and a large volume of investment goes through it as well.

[Translation]

**Mr. Thomas Mulcair:** Mr. Chair, the OEDC reckons that the total sum held in "opaque jurisdictions" would be somewhere between \$5,000 billion and \$7,000 billion, while the Tax Justice Network of the United Kingdom has a slightly higher figure, but within the same range of magnitude, amounting to \$11,000 billion.

Do these figures look anything like those that our Revenue Agency is aware of?

**Ms. Lyse Ricard:** We did not try to estimate how much money was in the... Nonetheless, I can tell you that we have had additional budgets that allowed us to increase our capacity substantially. As we work with our foreign colleagues, within a bilateral or multilateral framework, we have an opportunity to learn the strategies and to share them as a group.

**Mr. Thomas Mulcair:** Let us take a look of what we have learned about the strategies as a whole. UQAM published a validated study—no one ever challenged their figures—according to which it is reckoned that between 1992 and 2007, the five biggest Canadian banks succeeded in evading \$16 billion in payments of federal and provincial taxes and duties.

Have you any reason to challenge the figures advanced by UQAM?

**Ms. Lyse Ricard:** I have no reason to challenge them or not to challenge them. I have not consulted the study done by UQAM.

**Mr. Thomas Mulcair:** You did not consult the study done by UQAM? You come here and you tell us that you do not have any estimate. Have you never consulted the only valid, validated and unchallenged study on the topic?

**Ms. Lyse Ricard:** No, I have not consulted it. And have you, Ms. Bergevin?

**Mr. Thomas Mulcair:** I'm sorry, but I am stunned.

**Ms. Lucie Bergevin:** I have not consulted it either. However, what I can say is that the OECD studied the issue of financial institutions at length and any abusive fiscal planning they may have engaged in. So we are aware of the situation, and, as far as the administration of taxes is concerned, we are taking that into account.

**Mr. Thomas Mulcair:** In 2007, thanks to the actions of one person who made the UBS list public, the Americans were able to impose a fine of US\$780 million on UBS. It was also revealed that hundreds of Canadians were on the list, which you have, which you confirmed earlier. How much money have you recovered so far, based on the UBS list? We will then move on to the HSBC list.

**Ms. Lucie Bergevin:** The amounts we recovered were recovered under the Voluntary Disclosures Program. I do not have the chart here. We are studying the lists we received following peremptory requests, but we still have not received any results from the audit.

**Mr. Thomas Mulcair:** I will word the question differently. Are investigations systematically undertaken to look into the foreign activities of foreign banks, yes or no?

**Ms. Lucie Bergevin:** Absolutely. That is part of our population of major files and we have a wide coverage as far as the population of these major files is concerned.

**Mr. Thomas Mulcair:** In that case, how is it that, if investigations are conducted on a regular basis, it was only when the Americans received the UBS list, or when the French received the HSBC list, that we learned about the Canadians who were on these lists? How is it that we do not get any information, unless is leaked from sources like those?

• (1620)

[English]

**Mr. Brian Ernewein:** Mr. Chairman, may I jump in here for a moment?

I think the honourable member is conflating two different points. One is the legitimate concern, and that's what we've been trying to address, of those who would seek to hide income in foreign financial institutions. The other is the taxation of investments of Canadian financial institutions themselves abroad.

We are familiar with the study to which you referred, and the calculations that were made essentially seemed to be based on taking the amount of income that Canadian banks have earned abroad over a number of years and multiplying it by a Canadian tax rate to come up with an estimate of taxes that in the view of the authors of the study have been avoided. That is not in our view a valid analysis of taxes sought to be avoided.

**The Chair:** We'll have to come back to this in another round.

Mr. Pacetti is next, please, for five minutes.

**The Vice-Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)):** Thank you, Mr. Chair.

Thank you to the witnesses for coming forward.

I think there are two purposes for our being here. First, we're trying to understand the magnitude of this, whether you want to call it tax evasion or offshore bank accounts—but basically, tax evasion

is tax evasion. The way I see it, there are basically two types of tax evasion, domestic and international.

I can't believe that there is no estimate. I guess our first priority would be to determine how much the amount would be, and then after that what kinds of tools we can provide you with so that you can go after that money. I think it's a very basic philosophy of what we're trying to do here.

I can't believe we don't have numbers. We do see different numbers, whether it be from OECD-independent professors making estimates or from elsewhere. My question was going to be, how are these calculated internally? There must be an amount that you calculate. I'm sure the Department of Finance does it for the CRA.

So my question would be, how do you calculate tax evasion, whether it be domestic or international? I understand it's not going to be a hard number, because if you actually had the hard number, then you'd actually have the dollar amounts in your bank account. Isn't that correct?

**Mr. Brian Ernewein:** Again, I'm sorry, but we don't know what we don't know. You can make assumptions about some of this stuff, and that will certainly produce a number—

**Mr. Massimo Pacetti:** Okay, let me stop you there.

When you have the voluntary disclosure program, when you start seeing people actually voluntarily disclosing, is there not a trend? Do you see it more when times are tough, or when there are economic booms, or when the U.S. is going after some of the offshore bank accounts? There must be a trend.

What other countries have done is decide to give amnesty. They have said, bring in your money and we'll charge you either 5%, 10%, 15%, or 20%. There must have been some analysis done whereby that could be an option; you just say bring in your money and we'll tax you at a flat rate.

**Mr. Brian Ernewein:** My colleagues from CRA may have other comments, but I would say that we believe that reducing the opportunities to evade tax will reduce tax evasion. What we're doing as a policy shop at Finance is to try to put forward, as you call it, those tools to allow CRA better access to information and thereby to reduce tax evasion. In tax it's the same as an extradition treaty, for example. If you have an extradition treaty with another country, that takes one country off the list of those a fugitive might move to. If you take a jurisdiction off the list of somebody who has bank secrecy laws protecting them from our getting access to their investments, then that's one less place for them to go, seeking to evade taxes.

**Mr. Massimo Pacetti:** But every time we sign a tax information exchange agreement—I think that's the term—do we see more voluntary disclosures? Do we see more money coming in? Should we be moving faster?

**Mr. Brian Ernewein:** That's a fair question. I would say that at this stage it remains unanswered, because the tax information exchange agreements we've signed have not yet themselves been brought into force. One of them was tabled earlier this year, or perhaps even late last year; 10 more were tabled within the past few days, I guess, to be—

**Mr. Massimo Pacetti:** I'm not so sure that's the answer. I'm sorry to interrupt.

We've had exchange of information with other countries. Even with such countries as the United States, not all amounts crossing borders is declared. I can just imagine how long it's going to take before we get proper information from countries like Bermuda, the Cayman Islands, or Dominica—not that I'm trying to pick on these islands, but the record keeping of some of them leaves much to be desired. If we have trouble tracking money coming in from the States, I think things are going to go a long way before we catch any of these people from these exchange-of-information countries.

• (1625)

**Mr. Brian Ernewein:** May I just make a comment about that?

**Mr. Massimo Pacetti:** Yes, go ahead.

**Mr. Brian Ernewein:** First, yes, it is the case that we have a very good exchange-of-information procedure with the U.S. In many cases, information with the U.S. is exchanged automatically. My colleagues can speak to that, but it's very advanced, if you will.

The second point is in relation to the new jurisdictions, if you want to call them that, which are coming on and agreeing to an exchange of information, perhaps for the first time, with us and other countries. Yes, there is a concern that, to be blunt about it, they may not be committed to doing this or may not have the capacity to actually deliver on exchange of information when asked to do so.

Part of the work of the Global Forum is a two-stage analysis that is under way now. It will first go through and review every jurisdiction's—including Canada's—legal architecture to see whether it has the laws in place and the agreements in place to exchange information.

Then the second phase, taking place for some now and others in the next year or two, will be to analyze and assess their on-the-ground performance with respect to exchange of information to make sure that everybody who is committed to exchange of information is actually delivering on that exchange.

**The Chair:** Thank you.

We'll go to Monsieur Carrier, *s'il vous plait*.

[Translation]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Thank you.

Good afternoon, ladies and gentlemen.

Ms. Ricard, the figures you have shown us are, in my view, astounding. On page 6, as a matter of fact—I will come back to that—you say: "In 2009 alone, the CRA uncovered \$1 billion in unpaid taxes involving international activities". It is extraordinary to learn such a thing.

If you put yourself in the position of taxpayers who are currently listening to us, I think that this reflects badly on us as a government. Of course we have caught those people, but the fact that we discovered a billion dollars means that much more money is hidden. I am wondering what the problem is.

Have you called on the government to fix the problem? In my view, it doesn't make sense that, after having reviewed the files, we suddenly discover a billion dollars in unpaid taxes at some point during the year. When you think of all the headaches regular

taxpayers have to put up with when they deal with the Revenue Agency, I think it makes much more sense to find greater amounts elsewhere. Are you making a recommendation to us?

The first two pages of your statement say that everything is great, everything is fine, everything is truly wonderful, but if you look at the numbers you are presenting, the situation, in my view, becomes dramatic. I would like to know what kinds of recommendations you will make to the government to improve the situation.

**Ms. Lyse Ricard:** Since we have more auditors, our approaches have become more sophisticated. We are working in collaboration with our international partners, who are experiencing the same problem. Abusive tax planning internationally has begun to attract more attention in the last few years. Therefore, we have started to unite our efforts with those of other countries. For example, a few years ago, we created the Seven Country Working Group on Tax Havens. Canada is the founder and leader of this group. Since our means are more sophisticated, we are able to collect information on abusive tax avoidance strategies, which have been discovered around the world, and we can follow the trails to where they lead.

In 2004, we created in collaboration with other countries, the Joint International Tax Shelter Information Centre. There is an office in Washington and another one in London. For now, there are six member-countries. As for us, we have a representation in Washington. We exchange information every day.

• (1630)

**Mr. Robert Carrier:** Regarding the files you are auditing, are these, in some cases, files relating to income generated by Canadian companies, and for which you have lost the trace, companies whose income appears nowhere, but suddenly turns up in a foreign account? Should we not begin by fixing that problem here, at the local level with an audit, to avoid learning from other countries that there is a lot of Canadian tax money in their accounts?

**Ms. Lucie Bergevin:** I will try to answer that question. What you have just described is one aspect of tax avoidance. We are operating in a global economy. It is therefore possible that companies attempt to transfer income to places where tax rates are lower and where treaties allow certain things to take place. But the way we are going about recovering money helps us to better understand the way the strategies function. Based on that information, we can make recommendations to the Minister of Finance and amend the act, as well as improve compliance.

**Mr. Robert Carrier:** Regarding the 2,000 cases linked to HSBC in Switzerland, you said a little earlier that the audit did not seem to be very advanced. If that is the case, I am surprised that you are not acting with more urgency, at least when it comes to auditing those files, which have been unveiled and brought to our attention. The investigation into those cases should happen more quickly.

**Ms. Lucie Bergevin:** I would like to point out that the audits have already begun. None has been concluded yet, but it must be said that the list was revealed only recently; I think it was in the spring of 2010. We are still analyzing the information we have received to determine what is missing.

[English]

**The Chair:** *Merci*.

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

**Mr. Mike Wallace (Burlington, CPC):** Thank you, Mr. Chair.

I want to thank our guests for coming today and providing the information.

In this area, as in many areas, numbers can be thrown around and put before the public, and let's be frank, the public doesn't have a great understanding—and neither did I, until I started looking at the issue—of what actually is happening; I think that's only fair.

For example, we had a comment about recoveries. It could have been about collections and not about audits of international activity that are happening. I don't know what happened 15 or 20 years ago, when that minister was there, but I'm guessing it was about collections.

Just give me some examples. Based on what you've responded to other members, we don't—or your organization doesn't—waste a lot of time trying to come up with a guesstimate number on what the outstanding numbers might be. You're actually going after those who are either avoiding taxes—which is not a criminal offence, but there are penalties and so on, and we need to get that money back—or those who are purposely not paying taxes, and that is a criminal offence. Based on the answers you've given here today, you're actually actively pursuing those avenues.

Based on the numbers you've told me, back in 2005 and 2006 it looks as though there were about 278 cases, and about \$175 million was recovered—found, recovered, paid back, or whatever. By this time last year there were about 1,250 cases and about \$1 billion.

Is that because you have more resources? Have we been spending more money in this particular area, with more people doing it? Is that what is generating that tremendous increase in recoveries?

**Ms. Lyse Ricard:** This is correct.

**Mr. Mike Wallace:** And how long has that process been in place? Does it take a year, two years, three years? Are there people available for hire to do that work?

How long have we been at this improvement?

**Ms. Lucie Bergevin:** I'll answer the question. I think I understand.

We received funding several years ago, maybe four or five years ago. With that, we have increased the coverage of transfer pricing, of aggressive tax planning. The way we operate is we have tax services officers who do the work. That means more employees to do some audits, and that is what has resulted in better results.

**Mr. Mike Wallace:** One of our opposition party members has been standing up in the House and saying things such as that we have reduced our activity in this area by 16%, in terms of the government slashing the enforcement budget by 16%.

Is that an accurate statement, or do you have any idea where they would find that number?

• (1635)

**Ms. Lyse Ricard:** We have received additional funding for international work twice—for example, in 2006 and 2007. We have increased our international audit program by 44%, from 300 employees to close to 440, and the aggressive tax planning from

244 to 500 employees. But they're not the only ones involved in these things.

So they have doubled in the aggressive tax planning, and of course in relation to that have additional funding. You need funding for that: our lawyers to help us go to court; the additional...

**Mr. Mike Wallace:** There have also been statements made that this government is turning a blind eye to tax evasion and that we're changing the rules to make ourselves less aggressive on tax evasion, and so on.

Is that true? Has that happened in your department? Are there any changes that have occurred?

**Mr. Daniel Paillé:** Indeed.

**Mr. Mike Wallace:** I'm asking them and not you. Thank you.

**Ms. Lyse Ricard:** The numbers speak for themselves. We have increased our capacity, our knowledge, our expertise, sophistication, and we're going after that.

I can tell you that we have very passionate employees working on this. It takes a lot of patience, a lot of rigour, and a lot of knowledge, and they have to continually study and learn new things.

**Mr. Mike Wallace:** Well, keep up the good work, and thank you very much.

**The Chair:** Thank you.

We'll go to Mr. Brison, please.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you very much.

I want to commend Mr. Wallace, as a Conservative, for his strong support of the public service. It's good to see, from—

**Mr. Mike Wallace:** You were a Conservative once.

**Hon. Scott Brison:** No, I was a Progressive Conservative. There is a big difference.

**Some hon. members:** Oh, oh!

**Hon. Scott Brison:** In any case, I have a question on the relationship between those who would evade paying their taxes in Canada and potential proceeds from organized crime.

How closely are you working with other enforcement and investigative agencies, including the RCMP white collar crime unit? Are you working closely with them on some of these issues, with the assumption that some of those who would want to hide proceeds of crime might do so through offshore accounts?

**Mr. Richard Montroy:** Thank you, Mr. Chair.

Yes, indeed we do work extensively with law enforcement agencies and FINTRAC. FINTRAC has a system in place whereby they would send information to the CRA in cases they've noted in which there is possible tax evasion.

We also work closely with our colleagues in Finance to get amendments that we need. In the last budget, tax evasion was considered a predicate offence. The various pieces of legislation were changed to ensure that in cases when we do go to court and we prove tax evasion, the proceeds-of-crime and money-laundering provisions apply to allow us to go after the assets and the money of those convicted of tax evasion.

**Hon. Scott Brison:** How strong is the linkage between offshore accounts and organized crime?

**Mr. Richard Montroy:** As the tax administrator, I would say it is very difficult for us to answer a question like that. My colleagues in FINTRAC and the RCMP would perhaps be in a better position to answer.

**Hon. Scott Brison:** Some of the Canadian banks have very effective private wealth management arms—Harris Bank, with BMO. In fact all of the chartered banks have very strong wealth management groups.

If you take Cr dit Suisse as an example, or a UBS, do you see any difference between the services that Cr dit Suisse and Harris Private Bank might provide? Do you see any potential product differentiation?

• (1640)

**Mr. Richard Montroy:** I'd like to be able to say that as a public servant I'd never have any dealings with Cr dit Suisse or those types of institutions, so I personally cannot comment about the services they provide. I'm not aware of them.

**Hon. Scott Brison:** I'm a public servant in a sense too, so I share your pain.

My point is that given the strength of our Canadian banks and the efficacy of our Canadian banks' private wealth management arms, doesn't it strike you that there is one key difference in terms of what they can offer their clients and what a Cr dit Suisse or a UBS might be able to offer?

**Ms. Lyse Ricard:** I don't think we can answer that question.

**Hon. Scott Brison:** May I make a suggestion? I'm not trying to tell you how to do your jobs, but if I were you, I think I'd be assuming that what a Swiss bank would offer over a Canadian bank would be the relative ease of hiding money. Would there not be a disproportionate level of participation in offshore accounts amongst Canadians who are clients of Cr dit Suisse or UBS? Or have you investigated that?

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Brison.

Ms. Ricard.

**Ms. Lyse Ricard:** There are not that many of these kinds of institutions in Canada. So when I say I'm afraid we cannot answer that question—

**Hon. Scott Brison:** It wouldn't take long to follow those leads.

**Ms. Lyse Ricard:** Thank you for the suggestions.

**Hon. Scott Brison:** I'm just trying to help.

Thanks.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Brison.

Mr. Menzies, you have five minutes.

**Mr. Ted Menzies (Macleod, CPC):** Thank you, Mr. Chair.

And thank you to our witnesses.

This is a very enlightening discussion for a lot of us. I think we've all heard about some of these issues that are going on, and we are all rather offended. The honest Canadians pay their taxes—not that

anybody likes paying their taxes, but the honest Canadians do. I applaud your work in trying to follow those who don't.

Following up on some of these agreements, then, I believe it was in October that our Prime Minister signed an agreement with my friend, Madame Leuthard, in Switzerland. Is that the type of agreement the OECD is encouraging?

Mr. Ernewein, perhaps you could reflect on that one, if you would.

**Mr. Brian Ernewein:** The short answer is yes. We have a comprehensive double tax agreement, or tax treaty, with Switzerland already. But the terms of it in relation to exchange of information were not as comprehensive as we have sought in what I described earlier as this OECD standard.

The Swiss agreed, in a protocol to the treaty signed in October, to adopt the new OECD standard that covers all the ground. That is essentially on all fours with the tax information exchange agreements we're signing with other jurisdictions that don't include a comprehensive DTA, or double tax agreement.

**Mr. Ted Menzies:** I guess if I can follow up on that, when I was at a meeting at the OECD, we spent one day in Berlin at the request of the finance minister. I think that was in 2009. Some countries—I believe three or four countries—were quite upset that they had been, and they used the term, “named and shamed” because they weren't living up to the OECD standards. We were actually expecting a very difficult meeting when in fact they basically came and said in front of all the other countries that they would be acceding to those standards. We haven't used the term “name and shame” here talking about these countries. Does it work, or was that one instance maybe?

• (1645)

**Mr. Brian Ernewein:** I think some of the countries felt it was a bit undiplomatic that others were pressing them to agree to things such as this on greater exchange of information. There were from time to time many assertions of each country's own sovereignty and objections to being pushed or pressured into making these changes.

Be that as it may, the result we were all seeking we thought was the right one. And yes, there were a number of countries that were hesitant to get there. As I said, I think the watershed was the G-20 of 2009, where in the midst of the financial crisis a number of countries were essentially saying “enough is enough” and demanding cooperation. And indeed, it was forthcoming.

I've also given the statistic about the number of tax information exchange agreements that have been signed since that time. We think we're on the side of right in this case, so while I don't want to roll out “the end justifies the means”, we think that what has happened is all for the good.

**Mr. Ted Menzies:** You did say 14 of these TIEAs are under negotiation now. That still doesn't add up to a lot of countries, in my mind. I just wonder whether they are slow coming forward or whether that is all we need.

**Mr. Brian Ernewein:** Well, there are 25 TIEAs in total, 11 that have been signed and 14 more under negotiation. So that's the total. That, combined with our treaty network, which is fairly extensive, with 87 treaties and a couple more to be ratified, means that we have some 120, with 110 or 115 jurisdictions or countries covered. That represents a lot of the industrialized world.

It's certainly the case that our treaties and TIEAs do not cover every last country and jurisdiction, but through the OECD work the countries that were thought to merit the most attention have been identified, and those countries thought to merit the most attention have been pursued by us and other countries to get TIEAs in place.

**Mr. Ted Menzies:** How do some of the small jurisdictions, which we don't ordinarily pay a lot of attention to, such as Guernsey, manage to attract money that skips out of this country?

**Mr. Brian Ernewein:** I think their proximity to the U.K. is important, and to Europe as well. Speaking personally, I've learned a little bit of geography as a result of this, and some of the smaller islands in the South Pacific are new to me, but it is true that you don't have to have a vast land mass to have sovereignty and to be able to offer certain regulatory or tax advantages. There are some small jurisdictions that have seen the advantage of doing that. It has raised concerns for us, so we're trying to find that balance.

**The Chair:** Well hear from Mr. Szabo again, please.

**Mr. Paul Szabo:** It's often been said that if everybody paid their fair share, we would all pay less. I'm pretty sure that's true. Therefore, it's probably a priority for Canadians to see that we are being rigorous with all the tools that are available to us, domestically as well as internationally, and that the efforts we're making are in fact generating returns or a payback that is well in excess of what we put into it, because costing out a particular case usually indicates that there's an awful lot more ancillary or extended costs, like legal and so on.

Having put it that way, we're really talking about the underground economy and the fact that it's been estimated to be in the tens of billions of dollars, which should be of concern and of interest to us. So the question is, I think for Finance, whether or not we have had a serious discussion in Finance about our strategy for addressing the underground economy. When was the last time we looked at it, did a paper, engaged Canadians, and found out just how far Canadians are prepared to go—while protecting personal privacy, and so on—to ensure that we find as many people as possible who are not paying their fair share?

**Mr. Brian Ernewein:** That's a fair question, and it's certainly the case that we do want to be attentive to the system we've got in place to essentially help CRA in its ability to enforce Canada's laws.

First and foremost, I'd say Canada has a self-assessment system. For the most part, honest Canadians declare their income and pay their taxes. For those who don't, writing more rules doesn't necessarily help in terms of tax evasion. If you write another law saying you really, really owe the tax, that doesn't necessarily advance matters. For the group who seek to evade tax, it's necessary to put in other rules that come about it in a different way, or give Revenue more information that allows them to try to identify these taxpayers.

Now in the context of international tax, which I think is the focus of today's discussion, I identified a few different things in my opening remarks. We have had foreign reporting rules for a number of years. They aren't rules requiring a declaration of income; they require a declaration of the existence of foreign assets, as another way of trying to get at this thing.

We've had rules for some time that deal with the taxation of investments in so-called foreign investment entities—

● (1650)

**Mr. Paul Szabo:** Okay. My time is running out and I have two other quick questions.

The first one has to do with...we've got international trade agreements with about 90 different countries. Why don't we make it a precondition of a trade deal to also enter into an information sharing agreement on taxation? Isn't that a good partner to have?

**Mr. Brian Ernewein:** Perhaps. I don't have a ready answer for that. I will make the observation that I think there's probably a lot of overlap in the criteria we'd apply, in terms of having both lots of economic interaction, diplomatic relations as a threshold question, and the like.

**Mr. Paul Szabo:** It's a thought. If they're a good trading partner and it's a partnership worth having, then we should be working together in our best interest.

Finally, let me deal with all of these Internet businesses that send millions and millions of messages into Canada to everybody, saying your TD account has a problem, it's been shut down, contact us immediately to fix it. It's got the logo on it. And it's the same with Scotia, with RBC, with every one of our national banks.

These are all outside the reach of Canadian law, but there's no question in my mind that they are defrauding a lot of Canadians. That's just as bad as the tax evasion and illegal avoidance.

How does that work into your consideration of international dealings when many of these countries, like an India, a China, etc., are hotbeds for these massive telephone and Internet banks that are bombarding Canadians with attempts to defraud?

**The Chair:** A brief response, please.

**Mr. Brian Ernewein:** A brief response is that I certainly appreciate the concern.

I don't think there's a direct linkage between that and the exchange of tax information. Indeed we're pretty concerned about tax information being provided to other countries for the sake of making assessments of tax in that other country, and vice versa, so its use for other purposes would be something that would have to be given due deliberation.

**The Chair:** Thank you.

Ms. Block, please.

**Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC):** Thank you very much, Mr. Chair.

And thank you to our witnesses for being with us today.

Ms. Ricard, in your opening statement, you stated:

The key to the CRA's domestic and international strategy to prevent aggressive tax planning and tax evasion, in addition to active enforcement, is to make it easy for taxpayers to comply with their tax obligations, while ensuring that the consequences of avoiding or evading tax are serious.

You also stated, “We expect taxpayers to operate in good faith”, and that if they enter into financial transactions for the express purpose of avoiding or evading taxes you take action. In another statement you talked about the difference between tax avoidance and tax evasion, and that tax avoidance is about contravening “the object and spirit of Canada's tax laws”. I'm assuming “evasion” would be that you actually contravene the letter of the law.

Once it has been determined that the letter of the law has been contravened and an investigation needs to take place, what triggers that? Then I want to ask some questions about tax evasion convictions.

• (1655)

**Mr. Richard Montroy:** Earlier today we did talk about this and I attempted to sort of explain the difference between what I'll call the civil side versus the criminal side.

It's basically a burden of proof. When we raise tax assessments based on tax avoidance, it's simply a question of preponderance of evidence, whereas when we go the criminal route, tax evasion, it's beyond a reasonable doubt.

It's essentially the level of documentation and proof we need to have, in consultation with our colleagues in Justice, to prosecute a case of tax evasion.

**Mrs. Kelly Block:** Can you explain for me the process of a tax evasion conviction and how long that would take?

**Mr. Richard Montroy:** As a lawyer, I would tell you that the simple answer is that it takes a long time. In any sort of criminal case there are different reasons why it takes time. We have an approach in the agency where we like to obviously publicize our successes in criminal cases.

As a result, we put a lot of work into our efforts to make sure that our files, so to speak, are as solid as possible to ensure that when we do go to court on a tax evasion case, we're successful. I believe our numbers show that in upwards of 90% of cases where we file for tax evasion charges, we're successful. It's as a result of the good work that goes on beforehand.

It takes a long time to prepare a case to make sure it goes to court. Even when it does go to court, obviously, the taxpayers we're going after are doing everything in their power to delay the process. It simply takes a long time.

**Mrs. Kelly Block:** The process is long and the files are complex, but the number of tax avoidance audits is increasing, as well as an increased use of named and unnamed requirements. Do you anticipate the rate of convictions will increase due to the results of the work that you've done over the past four years?

**Mr. Richard Montroy:** I would say in a perfect world there would be less tax evasion. It's a combination of many, many things. My colleague from the Department of Finance talked about the tax exchange of information agreements that will enable us to get information from various countries to enable us to review assessments. Although the TIEAs are not in place yet, the fear of the CRA having access to that information—we've already seen people coming forward to correct their tax matters.

It's a difficult question to answer. Will we see an increase? It is possible, in the sense that if people continue to avoid paying taxes, despite the fact that our tools have increased with the TIEAs, tax exchange of information agreements, we're confident we will be able to get more and more information in years to come to build more cases.

[Translation]

**The Chair:** Mr. Mulcair.

**Mr. Thomas Mulcair:** Thank you, Mr. Chairman.

Mr. Ernewein, first, I will spontaneously invite you to come back before the committee with Léo-Paul Lauzon and the team from the Université du Québec in Montreal, since your colleagues from the other place have not had time to read their study. You generally dismissed their study out of hand by claiming that their approach is not sound. I am looking forward to hearing you justify your position with substantial arguments, because the study carried out by the Université du Québec in Montreal seems fairly valid to me.

So I am inviting you unofficially, but rest assured that this will be followed by a more official invitation.

[English]

I'm going to go down the list of a few different cases very quickly and just try to get an answer from the people at Revenue as to where things are.

[Translation]

In an investigation carried out by France with regard to a Swiss branch of HSBC, it was discovered that over a billion dollars had been hidden in Switzerland by Canadians. You are investigating this matter. How far along, specifically, is your investigation? Is this, in fact, the matter you said you have been meaning to investigate since last spring, and for which you have no follow-up information to provide us with today? Is that correct? Fine.

There is also the case of RBC Dominion Securities. I have an affidavit here which was signed by one of your auditors. I'm sorry, but it is in English. This is what it says:

• (1700)

[English]

...Canadian residents are using structures involving Liechtenstein entity account holders and offshore accounts, allowing them to masquerade as non-residents, hiding their investments and other income from the CRA, and neglecting their obligation to pay Canadian tax....

[Translation]

This was in the *Globe and Mail* and on the CBC. What are we doing with regard to Liechtenstein?

**Ms. Lucie Bergevin:** We regard to Liechtenstein, we had already conducted 26 audits by the spring. Up to October, we conducted 30 audits. We are continuing with the audits. We have obtained good results following the 26 audits, namely \$5.8 million.

**Mr. Thomas Mulcair:** According to the January 12, 2010, *Globe and Mail*—it was 11 months ago—your agency is also trying to obtain results from Scotiabank regarding a trust fund that would be holding the assets of several very wealthy families, including \$900 million that could belong to six big Canadian families in the business sector.

There's the Irish branch of Scotiabank. This branch manages the trust fund and pretends that it cannot have any access to the information held by its own branch. This much is clear: this is a branch of a Canadian bank, owned 100% by the Canadian bank. It has this information, but it says that it cannot disclose the information that comes from its branch in Ireland. How is this affair progressing?

**Ms. Lyse Ricard:** Section 241 of the act does not allow us to speak of specific cases or files.

**Mr. Thomas Mulcair:** Even if you do not talk about specific cases, could you at least tell me, as you did for other cases, that you are pursuing this matter, or are you abandoning it? This is a matter of public interest and this is why we are discussing it today.

**Ms. Lyse Ricard:** This is too specific.

**Mr. Thomas Mulcair:** Ah! This is because it involves a bank.

**Ms. Lyse Ricard:** Because it involves—

**Mr. Thomas Mulcair:** —wealthy families. In fact, you spoke about the other cases earlier.

**Ms. Lyse Ricard:** We discussed the lists, we did not discuss any specific situation.

**Mr. Thomas Mulcair:** I did not ask you to identify the six families. We know them all.

[*English*]

**Ms. Lyse Ricard:** Mr. Chair, I'm afraid I cannot answer questions that are that specific.

[*Translation*]

**Mr. Thomas Mulcair:** Oh, heck! We wanted so much to have a little more information, Mr. Chair.

Now we will discuss your evaluation of the advantage of investing in the expertise that you mentioned. You said that the agency had some very committed people in its ranks—we have no doubt about that.

Is there a calculation of the public assets, in terms of management, to find out how much income we can get from investing so much in repression and control? Have you any objective analysis of this investment and of the income it could bring in, if we invest in a strict enforcement of tax legislation?

**The Chair:** You have 30 seconds left.

**Ms. Lyse Ricard:** This is part of our way of establishing our costs to determine what resources we will allocate. According to past experience, what could that...? But it is not objective.

**Mr. Thomas Mulcair:** You have no figures?

**Ms. Lyse Ricard:** No.

**Mr. Thomas Mulcair:** You have no figures showing that if we invest more in this, it will be more profitable?

**Ms. Lyse Ricard:** It all depends on the costing that we are currently doing. Following our past experience, we look at what happens in various sectors and what all that could mean.

**Mr. Thomas Mulcair:** Thank you.

Rest assured, Mr. Ernewein, that the team from the Université du Québec à Montréal will be extremely anxious to hear you.

[*English*]

**The Chair:** A very brief comment, Mr. Ernewein.

**Mr. Brian Ernewein:** I will say that the committee has considered that question before, and I'm happy to attend again. I'm happy to offer a couple of observations today on that, if the committee is interested, to explain what I thought was the concern with that, but just to make note of the fact that I think it has been considered by the committee previously.

**The Chair:** Okay. Thank you.

[*Translation*]

**Mr. Thomas Mulcair:** I want to thank Mr. Ernewein for his diligence, considering our tight schedule. I want to reassure him that the team from UQAM will do its duty and come to defend its study. I will be there to hear the debate, because this team produced a study, and Mr. Ernewein has some statements to make about it. I am also eager to see the face-off between both.

[*English*]

**The Chair:** We'll be pleased to have them.

We will go to Mr. Pacetti, please.

[*Translation*]

**Mr. Massimo Pacetti:** Thank you, Mr. Chair.

Ms. Bergevin, you said that since the Swiss banks announced that the information was available, the number of cases grew from 26 to 30. Is this accurate?

**Ms. Lucie Bergevin:** I said that we had conducted 26 audits on the Liechtenstein accounts as of April. I also provided you with more up-to-date data for the month of October, namely 30 audits. I believe that these two figures have been published.

**Mr. Massimo Pacetti:** So as of April, you had carried out 26 audits. And from April to October, only four other audits took place. Is that correct?

Are you satisfied with the number of files that you opened during this time period? I realize that this takes time, but are you satisfied with these results? Personally, I do not think that four files in six months is very impressive.

● (1705)

**Ms. Lucie Bergevin:** Considering the complexity of the files and the lack of information available to us, I am satisfied with the progress.

**Mr. Massimo Pacetti:** You have said that these matters are complex, but are not most offshore bank accounts, regardless of whether they are in Swiss banks or elsewhere, similar to each other?

**Ms. Lucie Bergevin:** Yes, that is to some extent the nature of the beast. These are complicated files. At any rate, it usually does take some time to do audits, under normal circumstances. However the circumstances for these audits are more complex and therefore it is understandable that they take more time.

**Mr. Massimo Pacetti:** Do the cases you deal with pertain primarily to individuals or businesses?

**Ms. Lucie Bergevin:** A little of both. I do not have the exact percentage, but these accounts can involve entities such as foundations, trusts or individuals.



**Mr. Massimo Pacetti:** Are these charitable foundations?

**Ms. Lucie Bergevin:** Only foundations.

**Mr. Massimo Pacetti:** I have suggested that we take an amnesty approach. I raised this issue earlier, during the first round. Would this approach not be faster and more effective, we would not get better results if we were to give these people an amnesty for a lump sum amount? I do not know what this amount would be, but I know that this is done in other countries, in Europe in particular. Would that not be a good tool?

**Mr. Richard Montroy:** Every country must decide on its policies in accordance with its requirements. I have been working in the taxation field for some time. We have always thought that the Canadian way was to ensure that the law was being enforced and that our resources were being used to ensure that Canadians who owed taxes paid their share. The amnesty given by certain countries may have sent some people the wrong message.

**Mr. Massimo Pacetti:** My colleague Paul Szabo has just said that, in the immigration sector, our refugee system sometimes allows certain people to come into the country. Perhaps we could do the same thing and bring some money in.

It is a bit disappointing to see that only four files have been processed and that, six months later, they still are not even finalized. We do not even know what the results will be, because even when you send out a notice of assessment, that does not necessarily mean that you will be able to collect the money.

**Ms. Lyse Ricard:** We are dealing with many files. In one year, our aggressive international tax planning initiative enabled us to process 1,251 files.

**Mr. Massimo Pacetti:** Just imagine how much money we could save if we were to send the auditors elsewhere. We could simply have the money come flowing in, without any work or effort. We could ask for a percentage though, I do not know what it should be. I am very surprised that you have not done any analysis or study on the issue. As the years go by, people know that they are going to have to pay more, and they are therefore less inclined to want to return or repatriate the money.

[English]

**Mr. Brian Ernewein:** I have a comment—hopefully it's responsive—to add to my colleague's comments.

The idea of an amnesty is not patently unreasonable; I don't think anyone is suggesting that. But there are incentives it incorporates that give us pause. Functionally it's a reward for non-compliance, if by virtue of not paying your taxes you're forgiven interest and penalties and perhaps repay a fraction of the tax—that's better financially than if you paid your tax all along.

There's also the issue of there being an expectation of repetition. If one amnesty is declared, what are odds that it will be declared again some time in the future? That can be an incentive to evade tax to try to get in on the next one. So it's a balancing act.

**Mr. Massimo Pacetti:** I understand all that. That's why I was saying there should be a study done on that.

**The Chair:** Thank you.

Monsieur Paillé.

[Translation]

**Mr. Daniel Paillé:** I would like to go back to the statement made by Mr. Ernewein about information that we apparently do not have regarding banking institutions in particular. That really surprises me because under the Bank Act, which is under the purview of the Minister of Finance, banking institutions must submit a report every year. Some of them have already published the October 31, 2010, report and I am presuming that both the Department of Finance and the Revenue Agency have these reports. One thing is clear, we have all of the reports for October 31, 2009. I find it strange that you are saying we do not know what these figures are.

For example, on page 133 in the Scotiabank annual report, it says that there were 10 tax havens and that resulted in a Canadian tax savings of \$325 million. On page 128 in the RBC annual report, it says that this bank has 28 subsidiaries in tax havens which resulted in a Canadian tax savings of \$360 million. These reports are not talking about taxes on income, but rather taxes owed. As for TD, on page 129 of the report it states that it has four subsidiaries resulting in a savings of \$450 million. With respect to the CIBC, on page 150 it states that there are 12 tax havens and that savings amounted to \$118 million. These people are not very effective. With respect to the Bank of Montreal, page 152 refers to three tax havens and \$212 million. Finally, on page 144 of the Banque Nationale report, the bank states that, with only two countries, it saved \$45 million. So, in total, we are talking about 59 countries, including 9 on the grey list; 11 of them have signed agreements with Canada that have not yet come into force and 14 have not signed agreements but are currently participating in negotiations. This represents \$1.5 billion for 2009. I am very surprised to hear you say that we do not have information.

Why is it that the left hand of the Minister of Finance is not able to tell the right hand that \$1.5 billion are available? We say this every year, and I will bet you my shirt—although you may not want it—that it's going to be even worse yet for October 31, 2010. In my opinion, negotiating an amnesty is tantamount to becoming amnesic. It is as though we are saying that everything is going well and that all is forgotten.

Why do you not go after this information, which is available, or why do you appear not to know about it?

• (1710)

[English]

**Mr. Brian Ernewein:** Thank you very much for the question. I appreciate the opportunity to come back to this, because I think it's an important point.

First, if I've given the impression that I thought we didn't have information relating to our banks, I didn't mean to say that. I don't believe that's true. I think the honourable member has demonstrated that indeed we do have the information on Canadian banks.

My point earlier was that we don't have information on tax evasion, which might mean we don't have information about what foreign banks hold by way of investments from Canadians. But I don't believe that's true in relation to Canadian banks. As their own reports put forward, we do have that.

Point two, I don't think this is a matter of tax evasion. This is a matter of our Canadian banks having operations in Canada and outside of Canada, and in relation to their investments and operations outside of Canada they don't pay current Canadian tax when those operations are subsidiaries. I think that is the same rule that applies in every country in the world. As far as I'm aware, only one country ever sought to tax the business income of foreign subsidiaries, and it has stopped doing that. No one else does. Our system is very much like that.

So I think the characterization of that as tax avoided or even evaded is wrong. It's actually income earned in a foreign jurisdiction and is subject to the tax laws we impose in that jurisdiction.

[Translation]

**Mr. Daniel Paillé:** You are saying that this is not evasion, and that's fortunate, because otherwise this would be a mockery. Regardless of what the case may be, the Conservative Government of Canada, in accordance with its tax policy, is not going to go after this amount of \$1.5 billion in taxes in these tax havens, money which is sitting there and could be recovered. Is that what you are telling me?

• (1715)

[English]

**Mr. Brian Ernewein:** I think the policy has been in place since at least 1938, so it does predate this government.

The main point is that I don't believe it is tax avoided. It's the application of Canadian laws to say that foreign companies owned by Canadians won't be taxable in Canada simply because of having Canadian shareholders.

**The Chair:** Mr. Hiebert.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Thank you, Mr. Chair.

Just to follow up on a couple of questions that have been raised, if I heard correctly, Mr. Pacetti and the Liberals were suggesting that a tax amnesty might be a good idea or something to consider. Would that not basically reward tax dodgers and create an incentive for people to hide as long as possible, knowing that the longer they hide, the more they can save?

**Mr. Brian Ernewein:** That's what I had suggested earlier as a concern. There are considerations going the other way, that you can try to bring people back into the system, and that's helpful, too. But certainly one of the objections or concerns with having an amnesty is that yes, it would reward the non-compliant and perhaps provide an incentive for repetitive behaviour.

**Mr. Russ Hiebert:** I also understand that the NDP has said that the U.S. compiles an amount as to how much money is lost to tax havens. Mr. Layton was calling on Mr. Harper to begin publishing annual estimates of the tax dollars Canadians are losing to wealthy tax cheats in some corporations.

[Translation]

The United States is doing this now. Every year \$100 billion in revenue is lost in tax havens. This is a huge amount that has to be recovered for citizens.

[English]

I presume that estimate comes from the U.S. IRS. Would that be a good source for that information?

**Mr. Brian Ernewein:** Actually, the suggestion was made that it comes from the U.S. treasury, but I don't know, so I can't confirm that.

**Mr. Russ Hiebert:** Do you think there is any benefit to your department taking the time to figure out what the estimate would be, or would that be considered a waste of time?

**Mr. Brian Ernewein:** I don't want to characterize it as a waste of time, but I think it would be a very difficult exercise. The number of assumptions one would have to make to arrive at a number would make the exercise perhaps of less utility than one would hope.

**Mr. Russ Hiebert:** It would seem to me the department might better spend its time actually trying to find the tax dodgers than creating estimates of their number.

Earlier in your presentation you also said you had some additional rules you could expand on, given the opportunity. Well I'm here to give you that opportunity.

**Mr. Brian Ernewein:** Thank you. I'll just take a moment to elaborate a little bit on what we have in the international context. There are obviously others that apply domestically.

There have been foreign reporting rules that have been in place for a number of years and these are not, as I said earlier, declarations of income but rather simple declarations of the existence of foreign assets, which can be used as an indicator for the Canada Revenue Agency as to whether to conduct further investigations to determine if all income associated with those assets is being reported.

We also have rules in place dealing with investments in so-called foreign investment entities—offshore mutual funds and the like—where a tax is payable if the investment was tax motivated. There are proposals pending. There were some modifications to these in the 2010 budget to tighten our non-resident trust regime to ensure that people don't...not evade, because these are people who are seeking to be compliant with the law, but in terms of making investments in non-resident trusts, that a fair amount of tax is paid even when investing outside of Canada through a non-resident trust.

And finally, in the 2010 budget we have a proposal to institute new reporting obligations for those who participate in aggressive tax transactions. If the transactions with which they're involved have some confidentiality agreement with the adviser or the promoter, or there is a fee associated with it that is based on the tax plan working or not or being successful or not, or if there is any sort of insurance or coverage in case the thing fails, those criteria, together with having a tax avoidance transaction in the first place, will impose a positive reporting obligation on the taxpayer, and in some cases on their adviser or promoter, in order to declare the transaction to CRA and again for CRA to now have the leg up, if you will, to investigate further.

**Mr. Russ Hiebert:** Thank you.

**The Chair:** Mr. Szabo.

• (1720)

**Mr. Paul Szabo:** I'd like to pursue the future strategies, because I think it's really important that we come out of this meeting with a little bit of dialogue.

Penalties for evasion of income tax in the form of fines range from between 50% and 200% interest. That's pretty awesome. I spent a lot of years as a chartered accountant doing tax returns. I must admit, I have had involvement in some cases where people have said, "I ran into some difficulty. I couldn't pay my taxes. By the time I recovered, I had so much accumulated that I couldn't possibly afford to pay it back. So I had no way out, and I was just playing roulette trying to figure out whether I could continue to go on without getting that phone call. Once you get the phone call, the next thing you do is probably to go and get a rope and hang yourself." There really are some very clear stories about how it happens. I know that Finance and CRA know very well how people get into trouble.

A voluntary disclosure program is an amnesty of sorts, isn't it? You can come out and you can negotiate a deal, and you don't have to pay 200% interest. You can say, "Let's do the best I can; I want to pay as much as I can, but I also have to survive and live." It effectively is an amnesty program.

But let's not call it an amnesty. We have a program already that allows people who, in good faith, want to come out and make it right as well as they possibly can over the long term. I'd rather have 80% of something than 100% of nothing. That has to be part of our strategy, I hope.

So if we are now embarking on new initiatives for international treaties and information sharing, and really digging our heels in on those who are using offshore instruments, isn't it time we told Canadians how we feel about this and started to have a public education program that comes out with it, rather than just having the big stick?

**Mr. Brian Ernewein:** Forgive me, Chairman. Do you mean how we feel about an amnesty or how we feel about voluntary disclosure, or...?

**Mr. Paul Szabo:** No. As I said, the voluntary disclosure program is effectively an amnesty, because you're not going to be paying... you can negotiate down. We have to figure out...and do just what Mr. Mulroney did. He said, "Here's what I have", and it was just a fraction of what he otherwise would have owed if he had declared it in the first place. You have a tool there already, and it's not being subject to the penalties and interest and all this other stuff. It's just saying, "Let's make a settlement."

It seems to me that it would cost a lot less if you didn't have to go into court cases and do all the months and months of research for data, when people would be prepared to come forward if we only told them about it. I think the Canadian taxpayers out there are just afraid. They're afraid to come forward under the voluntary program, and we haven't told them that they don't have to be afraid, because, quite frankly, it's a win-win if we can get them on the tax rolls fairly and they're paying their taxes.

What's the thinking here? Are we just going to use a big stick? Are we going to say, "Everybody, come on, take a chance here, we have a program; you can come out, and we want you to get back on the

rolls, because the stress is going to kill you a lot sooner than your other natural health problems will"?

**Mr. Richard Montroy:** I'd like to clarify one thing. I would hate for the honourable members to leave here today thinking you can negotiate a deal with the voluntary disclosure program. The voluntary disclosure program is a program that allows people to come forward and declare the income that perhaps they didn't declare at first. They do not negotiate a settlement. One of the conditions to be part of the program is that you have to come forward voluntarily and state all the income or assets that you have not declared. Therefore, it's not an opportunity to negotiate what your taxes could be.

However, the CRA, not just for international but for any type of collection or amounts that are due, has a fairness program in place whereby we can listen to taxpayers regarding cases in which the debt has arisen under certain circumstances. We're certainly interested in having a dialogue with the taxpayer to ensure that they comply. Our ultimate goal, as Madam Ricard pointed out at the very beginning, is to achieve compliance. If that means, in cases where taxpayers owe us a certain amount, that we can negotiate a payment scheme with them, we do that on a daily basis.

• (1725)

**Mr. Paul Szabo:** I agree, and I know it works, but in my experience a lot of people out there are afraid to give it a chance.

**The Chair:** Thank you.

I have a few questions. I wanted to clarify a couple of issues with CRA. You may have answered it already, but with regard to the \$1 billion in 2009 that you uncovered with respect to unpaid taxes involving international activities, can you tell me how much was from assets in an offshore bank account that was owned by an individual? Would you have that information?

**Ms. Lyse Ricard:** We don't have it—

**The Chair:** Can you get that for me?

**Ms. Lyse Ricard:** —divided into segments of taxpayers. We'll look at what we.... I can't guarantee that we can segregate to that level.

**The Chair:** Okay. Any information you have on that would be helpful.

The second question would be this. You identified the auditing of 6,700 cases—you may have answered this already—but how many cases were there problems with of the 6,700 that were audited since 2006?

**Ms. Lyse Ricard:** How many were...?

**The Chair:** It says "Since 2006, the CRA has audited more than 6,700 cases", so how many cases were there problems with?

**Ms. Lyse Ricard:** I said we have audited and completed that number of cases and we have uncovered \$3.7 billion in tax dollars.

**The Chair:** So, just ballpark, is there a problem with 50% or 20% of the cases you audited?

**Ms. Lyse Ricard:** How many we assessed, do we have that?

**Ms. Lucie Bergevin:** I don't have this information with me. I guess your question is how many of those 6,700 cases have an amount re-assessed?

**The Chair:** If you can get that to me, I'd appreciate that.

I did want to return to the issue of banks in other jurisdictions with you, Mr. Ernewein, and I've got about two and a half minutes left.

Take the example of BMO, which owns Harris Bank in the United States. They obviously pay taxes in the U.S., but they're not avoiding tax in Canada. A Canadian bank owns a bank that operates in the U.S. and therefore complies with U.S. laws with respect to tax and other matters. In my view, that is a good thing for Canada and a good thing for Canadians, in the sense that our companies owning companies in other jurisdictions is a good thing. We obviously want to have as much investment in Canada as possible, but we want our companies to be global champions as well.

But I think some people may think that's somehow avoiding tax when it's not. So I wanted to give you an opportunity, in a couple of minutes here, to clarify the activities of our banks and insurance companies and others in other jurisdictions and the issue of tax avoidance, because I think that does really need to be clarified.

**Mr. Brian Ernewein:** Thank you, Mr. Chairman.

I appreciate the opportunity to return to this. Yes, I think the example you give of a Canadian bank owning a U.S. financial institution is an excellent one. U.S. tax rates are at or are increasingly above Canadian tax rates, and that may mean that the amount of tax paid in the United States on the U.S. bank income is greater than the Canadian tax bill. We provide a foreign tax credit; that is, we allow a deduction for foreign taxes against Canadian taxes paid.

So in those circumstances, the profits of the U.S. financial institution owned by the Canadian parent bank would produce no additional Canadian tax, and that seems reasonable because you need to provide the foreign tax credit to eliminate double taxation. That's one case.

Another case is where a financial institution owned by a Canadian bank, a subsidiary, is located in a jurisdiction that has a lower tax rate than Canada's. In those circumstances we don't impose current tax on that foreign subsidiary's business profits, just as almost every other country does not tax to that income.

That leads me to my third point, which is the suggestion that we can look at these foreign financial institutions owned by Canadian banks or other financial institutions and simply apply a Canadian tax rate to it. I think this is misleading at best, because it suggests that if we imposed a 25% tax on these profits, the Canadian bank would still get the business. Every other bank in the world having operations in that same location is subject to the same non-taxation rules, and that's why for competitive reasons we don't tax. So applying a fictional tax rate or applying a tax rate to this fictional income would, I think, be a misleading way to measure Canadian revenue losses.

● (1730)

**The Chair:** I very much appreciate that clarification.

I want to thank you all for being with us here this afternoon and for responding to our questions. If there is anything further you wish the committee to consider, please do submit it to the clerk. We will ensure all members get it.

Thank you so much.

The meeting is adjourned.

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