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Thursday, May 30, 2013

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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (0850)
[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call to order meeting number 126 of the Standing Committee on Finance. The orders of the day, pursuant to the order of reference of Wednesday March 6, 2013, are for clause-by-clause consideration of Bill C-462, An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act.

Colleagues, I know that you're all well refreshed from your three hours of sleep last night.

I want to welcome our two officials here. I think they're both from the CRA, Mr. Brian McCauley and Mr. Michael Honcoop. Welcome to the committee. Thank you so much for being with us.

I understand there's a motion, and I think it's probably best to deal with it prior to delving into clause-by-clause consideration.

I'll ask Mr. Hsu to move his motion, please.

Mr. Ted Hsu (Kingston and the Islands, Lib.): Thank you, Mr. Chair.

I'd like to move that the committee delay our clause-by-clause consideration of Bill C-462 until after the committee has spent at least half an hour questioning witnesses who are independent of the government on the subject of this bill. The reason for that—and I believe that all the committee members will have received the letter from Hon. Scott Brison, for whom I'm substituting today—is that we'd like to get this request on the record because I believe that only five minutes have been devoted to that so far. Only 45 minutes has been spent on Bill C-462 so far, and only five minutes of that was for asking questions of witnesses independent of the government.

I'm told that a lot of people who work with the disabled, who need the disability tax credit, have learned about this legislation only recently and want to make presentations to this committee. The issue is the maximum price set for a consultant to help with the application for the disability tax credit. That price level will affect the economics of the whole service of helping people access the disability tax credit, and it's left unsettled by this legislation. It probably should be considered, or at least some testimony put on the record, here at this committee.

So we'd like to just have 25 more minutes of testimony from witnesses independent of the government.

The Chair: Thank you for that.

I'll go to Ms. McLeod, and then Mr. Rankin.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Mr. Chair.

I think there are a few comments I would like to make.

Although we talked about the hearings that we've had, I think it's also important to acknowledge all the briefs that have been submitted, which I think everyone has done their due diligence around.

As I look at the concerns of the people who are the disability tax promoters or the people who support people in these applications, I see that these concern the price and the maximum that will be payable. I think it's important for them to understand that the way the legislation is written, there's going to be a very extensive consultation process by the CRA. We recognize, certainly, that there are legitimate people out there who are providing an important support.

That is why this legislation was designed, to ensure that protection, and the CRA is going to make sure that those consultations are held. Certainly, they are taking good note of the people who will want to be part of the conversation as this piece of legislation moves forward.

The Chair: Thank you.

Mr. Rankin, please.

Mr. Murray Rankin (Victoria, NDP): That's fine. I don't need to address this.

The Chair: Is there further debate?

Yes, Mr. Hsu.

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

I'd just like a chance to make a brief clarification. Because I'm substituting on the committee, I'll just assume that a lot of briefs have been submitted. So there is information in those briefs, and I think we should have some time to ask questions to better understand them.

The Chair: Thank you.

On this, Ms. Glover.

Mrs. Shelly Glover (Saint Boniface, CPC): I just want to add that I had a wonderful conversation with someone who submitted a brief, because, of course, I phoned people to make sure that I was well informed of their concerns. I was very pleased to speak with a very kind man by the name of Darren Earn, the president of Grants International Inc. I know that all members of the committee got his brief, and I suggested strongly that he be included in this consultation process. So I'm thrilled that these people are going to be consulted by the CRA.

As Ms. McLeod said, there has been plenty of time for us to ask questions. Cheryl Gallant did a fantastic job of reaching out to many of these people as she was designing this bill. So I have all the confidence in the world that we've done our due diligence here and should move forward, so that we can actually get the CRA working on the consultation process to set those fees with the input of all of these folks who have indicated they would like to be consulted.

• (0855)

The Chair: Thank you.

I will go to the vote then on the motion.

(Motion negatived)

The Chair: We will move to clause-by-clause consideration of the bill.

Pursuant to Standing Order 75.1, consideration of clause 1, the short title, is postponed.

(On Clause 2—*Definitions*)

The Chair: For clause 2, I have amendment G-1 in the name of Ms. McLeod.

Ms. McLeod, please, on G-1.

Mrs. Cathy McLeod: Thank you, Chair.

G-1 is looking to import the definition of “person” from the Income Tax Act to ensure that the bill captures all types of promoters, such as individuals, corporations, or other legal entities.

The Chair: Thank you.

Is there any discussion?

Mr. Rankin.

Mr. Murray Rankin: Chair, by way of introduction, the official opposition will be supporting this bill and, indeed, the amendments that are proposed by the government this morning. We agree that it's necessary to establish limits on the maximum fees charged by promoters of the disability tax credit.

However, we believe that the biggest issue related to this is the inability of Canadians to access this service. It's not transparent, and people with disabilities are having trouble obtaining these services. We think the problems have arisen because of the failure of the CRA to do outreach, which has given rise to the lack of services. The cuts, which have had impacts on Canadians, have been dramatic. This is simply an illustration of the needs that have been created.

We won't oppose this bill. We think the bill is understandable in the context of the cuts that the government has created and the failure to do its job for Canadians.

The Chair: Thank you.

We'll then move to the vote on G-1.

(Amendment agreed to)

I believe that's unanimous.

The Chair: Shall clause 2 carry?

(Clause 2 as amended agreed to)

(On Clause 3—*Prohibition*)

The Chair: On clause 3, we have amendment G-2.

Again, Ms. McLeod, it's in your name.

Mrs. Cathy McLeod: Thank you.

Amendment G-2 is to improve the penalty structure to ensure that the penalty to which a promoter exposes himself is not limited simply to the profits that they would otherwise have received.

The Chair: Thank you.

Is there any discussion?

Mr. Rankin.

Mr. Murray Rankin: I will ask Ms. McLeod to expand on that.

Why was it necessary to make this amendment from the first version of the bill?

The Chair: Ms. McLeod, you can respond, or we can have officials offer their thoughts as well.

Mrs. Cathy McLeod: I'll let the officials go first, and then I can summarize.

The Chair: Mr. McCauley, please.

Mr. Brian McCauley (Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): Thank you, Mr. Chair.

Actually, it's fairly straightforward. If the original wording of the bill had remained, it would have meant there were no consequences for the firm. Let's say a fee was established at \$5,000 and they charged \$5,500. The \$500 would have been the penalty, but there's really nothing at risk for them, in as much as they would have paid that back. There would be no consequence beyond that for them. It really wouldn't have been a penalty.

I think the amendment simply adds \$1,000 to that, so there is some real consequence. Otherwise, it would be a very small risk to the business.

The Chair: Is there any follow-up on that?

Mr. Hsu, please.

Mr. Ted Hsu: It's not exactly a follow-up, but I have some more general questions for the officials, and I'm wondering if—

The Chair: On G-2?

Mr. Ted Hsu: It's more general than that. I will seek your advice, Mr. Chair, about when we deal with that.

The Chair: Why don't we deal with G-2, and then for clause 3 perhaps you can ask a general question.

Mr. Ted Hsu: Okay.

The Chair: I will call the motion on G-2.

(Amendment agreed to)

The Chair: We'll then move to clause 3 itself.

Mr. Hsu, do you want to pose your questions now?

Mr. Ted Hsu: Thank you.

I'd like to ask for some numerical information from the officials. How many disability tax promoters has department consulted since the legislation was first introduced?

Mr. Brian McCauley: The legislation calls for consultation if and when the bill is passed. It would really not have been appropriate for us to consult while Parliament was considering the bill, so we haven't done so, other than paying attention to the briefs that have been submitted.

Mr. Ted Hsu: Thank you.

What do you expect the maximum fee to be under the regulations to be put forward if this bill is passed?

• (0900)

Mr. Brian McCauley: I have absolutely no idea, because that's the purpose of the consultations.

We do know that the bill is designed to ensure there's a viable marketplace. It recognizes there are many instances where these services are valuable and that it's important for people to be able to access the credit. The consultations are designed to try to come up with a fee structure that will ensure there is a viable marketplace and deals only with those circumstances where most Canadians would say that is not reasonable.

Mr. Ted Hsu: Is it fair to say that the CRA has not looked at any options for the maximum fee structure because you're waiting for the bill to be passed?

Mr. Brian McCauley: I certainly haven't. I know we've been musing out loud about how you might approach it, and one of the things we were talking about even last night was how we can push the consultations should we have a straw model. Those are the kinds of things we'd probably think through with the industry during the consultation process so that is as open and transparent as possible.

Mr. Ted Hsu: Okay.

Assuming that the bill passes in the near future, when do you think parliamentarians will have a first look at the draft regulations? There'll be a consultation process and then draft regulations will come out. When do you think that might happen or how long might that take?

Mr. Brian McCauley: My understanding is that certainly there is no intention to rush consultations inasmuch as it is not an unimportant issue. I would expect we would want five to seven months for consultations. Again I'm being a bit speculative here. It's a big country, so knowing who wants to provide information, giving

them a chance to do that, and then providing our information to the minister....

It'll be as long as it needs to be, but a target would be six months, because we don't want it to drag on forever, obviously. If there's a problem to be addressed, we don't want the problem to continue.

Mr. Ted Hsu: Okay. I'm sure there are small businesses across the country that would be worried about how this legislation and the following regulations would affect their businesses. If they're worried about the future of their livelihood or businesses, whom should they contact at the CRA to set up a meeting and be part of the consultation process? Do they have to contact the parliamentary secretary? Is there a formal pipeline they could enter at the CRA?

Mr. Brian McCauley: There's no wrong door. So whether it's through the committee clerk, the parliamentary secretary, or an individual member, they can simply provide a name to the minister. Again, we haven't defined that, because it would have been inappropriate for us to assume the bill were going to pass, but the avenues will be very clear. I would not be surprised if we posted something on our website so that people can e-mail comments or provide observations on things. We usually try to do it that way.

I would expect the vast majority of businesses that are operating appropriately would want to see a marketplace that Canadians feel is operating properly. I think those businesses that are properly valuing the product would not have anything to worry about. That's what we're trying to accomplish through the consultations.

Mr. Ted Hsu: Right.

Thank you very much.

The Chair: Thank you.

Do you have something further on this clause, Mr. Rankin?

Mr. Murray Rankin: Mr. Chair, I want your guidance. I was going to address these questions about the regulations and fees and so forth when we got to clause 2. Is this the appropriate time to follow Mr. Hsu with questions building on the consultation and the like, or should we wait until we do clause 2 and talk about the regulations then?

The Chair: Do you want to do it with respect to clause 9? You could certainly—

Mr. Murray Rankin: Presumably we're going to go through each of those clauses—

The Chair: Yes.

Mr. Murray Rankin:—including clause 2, which contemplates regulations being prescribed. I was simply thinking that we'd talk about the nature of those regulations either at clause 2 or at clause 9, as you guide us. But I could now build on what Mr. Hsu did, if that would be your preference.

The Chair: You can clarify it for me.

I see that you can do clause 9, so where's clause 2?

Mr. Murray Rankin: Clause 2 is the interpretation act and it says regulations are as "prescribed"—

The Chair: Oh, okay.

Mr. Murray Rankin: —and I was going to talk about that. But either way—

The Chair: You can certainly do it there.

Mr. Murray Rankin: But not now? Not—

The Chair: It's your choice. Clause 3 deals with the promoter's fee. So you can do it here or you can do it in clause 9.

Mr. Murray Rankin: Maybe I'll do it now, because the question I'm going to ask builds on Mr. Hsu's questions.

Mr. McCauley, Mr. Hsu asked you questions concerning the nature of the maximum fee to be prescribed by regulations. My questions are going to be about those who would be exempted. The regulation contemplates certain promoters being exempted, and I wondered if you'd given any thought to whether that would be done by way of criteria being named in the regulation, or would there be categories of promoters that you're contemplating exempting?

I wasn't sure if you'd given any thought to how that would work.

● (0905)

Mr. Brian McCauley: To be honest, not particularly. Again, both in reality and in perception, we want to be seen to be quite open throughout the consultation process and not have landed, as it were, on what we think may or may not be exempt.

Some people have observed to us that if the fee structure is designed in a certain way, the issue of who's exempt or not really becomes moot, because as you know, unless you're exceeding that cap, there's no requirement to report. It really leaves the marketplace alone. So there is a bit of an interplay between where you land on fees and whether or not at the end of the day anybody might have a legitimate position in terms of their being exempt.

Mr. Murray Rankin: On the question of maximum fees, I believe there are some regulations in Canada contemplated under the Interpretation Act where you can have different fees for different regions of the country. A maximum in Toronto may be different from a maximum in a rural part of the country, or in the north.

Is that part of your thinking, the possibility of different fees depending on the region?

Mr. Brian McCauley: What we will have to sort through is how do we appropriately value the product. If there are legitimate, as I think you're sort of intimating, cost considerations—labour in Toronto versus labour in another part of the country—I think certainly we would take that under consideration when we provided advice to the minister on the regulation, yes.

Mr. Murray Rankin: Thank you.

The Chair: Thank you, Mr. Rankin.

(Clause 3 as amended agreed to)

(Clauses 4 and 5 agreed to)

(On clause 6—*Offences*)

The Chair: We have amendment G-3.

Ms. McLeod, please.

Mrs. Cathy McLeod: Thank you, Mr. Chair.

Amendment G-3 is to enhance the information disclosure threshold to allow for taxpayer information to be used when such information can reasonably be regarded as necessary rather than when such information is simply necessary for the administration and enforcement of the act.

That was deemed by our Canada Revenue Agency officials to be an important distinction.

I don't know if Mr. McCauley can talk to why this was important to facilitating this bill.

The Chair: Mr. McCauley, please.

Mr. Brian McCauley: Very briefly, the reason we suggested the amendment was that there was a possibility that, for example, the information provided on the disability certificate—where, if the bill passes, there would be an advisory, for example, to individuals about there being a maximum, so there would be consumer awareness, if you wish—and some of the other information that might be provided might not be available to us to use, to do some analysis, to see whether or not a firm would be exceeding the cap.

So this only makes sure that this couldn't be used as a barrier to really get around the intent of the legislation. It has nothing to do with information sharing beyond the CRA, or to other agencies or departments. It's really just to allow us to administer the bill in the manner that we thought was intended when it was created.

I'd say it's a very subtle technical change.

The Chair: Thank you.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

(On clause 8—*Information may be disclosed*)

The Chair: We have amendment G-4.

Ms. McLeod.

Mrs. Cathy McLeod: Thank you, Chair.

I think in terms of the structure of the bill, the legislative assistant was just talking about G-4, which was the one that I had talked to—sorry, I apologize—as G-3. So I think we need to....

I'll look to his advice on that.

The Chair: Well, we can take the discussion previously on G-3 and apply it to G-4.

Mrs. Cathy McLeod: Okay. Thank you, Chair, for your indulgence.

The Chair: Monsieur Caron.

● (0910)

[*Translation*]

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): I see that the English version of the amendments mentions information or documents whereas the French version just mentions documents.

Did we want the two versions to be equivalent? Or is there a particular reason why the French version is a little different?

Mrs. Shelly Glover: I don't have the French version.

[English]

The Chair: Can the officials speak to that?

Mr. McCauley.

Mr. Brian McCauley: Other than wanting it to be legally consistent, I'm assuming that the English version, which I think was the version the sponsor authored it in, would be the version that people would want to reconcile it to.

I don't know whether it's us, frankly, or the committee who could validate that. There is a process for ensuring that the French and the English versions actually do work legally.

I think the committee is responsible for that.

The Chair: Dan and the clerk can add to this, if they want, but to my understanding, your concern has been addressed, because

[Translation]

in French, it says "documents".

Okay, it's fine now.

[English]

Thank you for raising that.

Should we go to the vote on amendment G-4?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 8 as amended agreed to)

(On clause 9—*Regulations*)

The Chair: We have amendment G-5.

Is there any discussion?

Ms. McLeod.

Mrs. Cathy McLeod: I think it's straightforward, with very simple wording.

The Chair: Then we'll go to the vote on G-5.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

(On clause 12—*Jurisdiction*)

The Chair: Mr. Rankin.

Mr. Murray Rankin: This is just a question, probably for the officials again.

The purpose of clause 12 is to give original jurisdiction to the Tax Court, as in the case of the other statutes that it has jurisdiction over. My question is this. Would it be possible, under their rules, to have more "user-friendly" regulations, if I can call them that, in case individuals come before the tax court?

I know, for example, in the Federal Court there are special rules for privacy and access to information, where, if you like, people who haven't been represented legally are able to perhaps proceed more efficiently.

I wonder if that's possible under the Tax Court rules. Or do you know?

Mr. Brian McCauley: I don't know, to be honest. What I can do is to look into it and see if we can provide some information back to committee.

Mr. Murray Rankin: Could that indeed be part of the consultation exercise? Could that be something that you would discuss with the people who are affected by the disability tax credit regime?

Mr. Brian McCauley: The only reason I'm hesitating is that whenever you're looking at something that involves the courts, and the independence of the courts, I would want to be very careful that we weren't consulting on something that they would be offended by.

Certainly we'll take it under advisement. If we can fit it in, and they'd be welcome to hear just even what was said, we could certainly try to accommodate that, sure.

Mr. Murray Rankin: That's fine.

The Chair: Thank you.

(Clause 12 agreed to)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Mr. Rankin.

Mr. Murray Rankin: Mr. Chair, I'm not sure if it's appropriate, but would it be in order to ask these—

● (0915)

The Chair: I always get nervous when colleagues start a statement like that.

Voices: Oh, oh!

Mr. Murray Rankin: Well, that just betrays my rookie status, Chair.

I wonder if it would be appropriate, given the nature of this bill, to put forward a motion to ask the officials to come back with a status report after their consultations have been completed, and maybe a progress update six months thereafter, just to talk about the outreach and communications respecting this initiative.

I say that because we've heard witnesses talk about the impact of this bill on their lives. We've heard people talk about the cuts, the failure of outreach services, the cutting down of the inquiry counter services for CRA, as causing a lot of hardship.

I'm wondering whether, in that context, such a motion would be in order, that the officials could come back and tell us how they fared.

It shouldn't take very long for such a report to be given.

The Chair: This is with respect to an update on the consultation?

Mr. Murray Rankin: Yes, exactly.

The Chair: I don't know whether a motion is required. You could, as a member of the committee, just make the request of CRA to do that.

Ms. McLeod, do you want to address this point?

Mrs. Cathy McLeod: Certainly the government would be more than happy to support bringing the officials forward at that time. Whether, as the chair advises, we need a motion, or whether we should simply move it forward to subcommittee discussion, I think we certainly would support that.

My only other comment is that I regularly hear the opposition express concern about the money we spend on advertising, when what we're doing is we're spending money to advertise very important initiatives, such as the disability tax credit. I think sometimes perhaps they need to temper that, because our job as government is to spend money and time sharing with Canadians.

Certainly as a member of Parliament, in my householder that went to every single household in the riding, I let them know about this program. I outreached to the groups that deal with people with disability to let them know about that tax credit.

So not only is CRA doing a great job in terms of this program, but I also think that as parliamentarians we can do a great job in supporting our constituents.

An hon. member: Hear, hear.

The Chair: Mr. Rankin, it sounds as though you got what you wanted.

Mr. Murray Rankin: No. My only reply is the obvious, that on October 1, 2013, every service counter in Canada will be cut back or

be closed. Outreach services in my community have been reduced to nothing.

The result of all of this, Mr. Chair, is that people don't know about this service. They don't know how complicated it is, and the government may have created the need for this kind of bill through that exact process. That's what I think needs to be addressed.

The Chair: I have one more speaker.

Colleagues, my advice is... A request has been made and a request has been granted without even a motion.

Mr. Murray Rankin: Thank you.

The Chair: I'm not sure how long we want to keep the debate going.

Ms. Glover, do you want to comment further on this?

Mrs. Shelly Glover: The only thing I was going to say, Mr. Chair, is that I just find this whole discussion very ironic. We support what Mr. Rankin has put forward. We believe it's an important bill. We believe that a status update is in order so that Canadians can understand that we've done what we can to help them. But it's ironic, because when we put forward the disability tax credit, to begin with, the NDP didn't support it.

So let's give credit where credit is due. This government has done an awful lot for people with disabilities. Our Minister of Finance and minister of the CRA really truly believe this is an area on which we can focus to do what we can for the most vulnerable. We're going to continue to do that with or without the support of the NDP.

Mr. Murray Rankin: We voted unanimously in favour of this bill, Chair. I think our support is pretty obvious.

Mrs. Shelly Glover: But you didn't vote for the credit.

The Chair: This is the first meeting I will have adjourned early this session—

Voices: Oh, oh!

Mr. Murray Rankin: Hear, hear!

The Chair: —so I'm going to encourage you to continue that debate over coffee, perhaps.

Mr. Murray Rankin: Thank you, Mr. Chair.

The Chair: Thank you, all. I want to thank our officials very much for being with us here this morning.

Thank you, colleagues.

The meeting is adjourned.

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