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Chair: The Honourable Wayne Easter



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• (1605)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I call this meeting to order.

Welcome to meeting number 56 of the House of Commons Standing Committee on Finance.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Tuesday, April 27, 2021, the committee is meeting to study the Canada Revenue Agency's efforts to combat tax avoidance and evasion.

Today's meeting is taking place in a hybrid format, pursuant to the House order of January 25; therefore, members are attending in person in the room and remotely by using the Zoom application.

That said, I'll forgo the formalities.

We have a quick motion that we need to deal with on the project budget cost for this set of hearings. I think Mr. Ste-Marie has distributed a motion to members. To give members a heads-up, we'll deal with that during the last 15 minutes of the committee.

The budget, I believe, for this set of hearings on the study of the Canada Revenue Agency's efforts to combat tax avoidance and evasion has been sent to members. It is requesting an amount of \$1,800 for this study. The costs are broken down in what has been sent to members.

Does somebody want to move adoption of that?

Mr. Pat Kelly (Calgary Rocky Ridge, CPC): I'd be happy to.

The Chair: It has been moved by Mr. Kelly.

(Motion agreed to)

The Chair: Thank you.

We will start—

Mr. Pat Kelly: I have a point of order, Mr. Chair. I'll just take a brief moment.

I know that during the sound check some very kind words were spoken on the announcement you made yesterday. On the record, I would like to first of all recognize the fantastic job you've done as our chair. For the last six years I've been on and off this committee. It's been a delight to participate in this committee with you, Wayne.

Wayne, you're a great parliamentarian. You'll be sorely missed for your service to community, to country, and to your party, and for your great judgment. You've never let your party loyalty get in

the way of fairness to other parties or get in the way of friendship or your good humour. I wish all the best to you in your retirement.

I'm really looking forward to your speech tonight. When we're done here at committee, I'll be zipping off to the chamber. I'm very keen to hear what you might have to say tonight.

Thanks, Wayne. I really appreciate your service.

The Chair: Thank you, Pat. I probably should probably be working on that speech now.

Anyway, thank you for that. You guys are embarrassing me.

Mr. Peter Julian (New Westminster—Burnaby, NDP): I have a point of order.

I'm going to break all parliamentary rules, Wayne, and just say that I was talking about you while I was doing my sound check. You have played such a key role in the finance committee. Your stewardship has been amazing, because you don't take things personally even when things get heated. You're not partisan. You try to get things done, which is really the embodiment of a fine parliamentarian.

I think one of the best moments with you and the finance committee was being down in Prince Edward Island at the pre-budget consultations and seeing you in your own element. You will be sorely missed. There are very few parliamentarians—I think everyone agrees—whose absence will be noted, but you are one of them.

I just wanted to praise you for your work and wish you all the best.

The Chair: Thank you, Peter. Thank you all. It's been a blast. It's a lot of fun.

Now let's get to work.

We will start with our first witness, André Lareau, associate professor, faculty of law at Université Laval.

Go ahead, André. The floor is yours.

[Translation]

Prof. André Lareau (Associate Professor, Faculty of Law, Université Laval, As an Individual): Good afternoon.

Thank you for inviting me to appear before the committee today.

Several years ago, I met the journalist Laurent Laplante. He told me that you can't control what you can't see. That sums up the topic of my presentation today, which will primarily focus on KPMG's planning in the Isle of Man.

I'll make an analogy with chefs. When you want to make a recipe, you use various ingredients, which are all good. However, when put together, these ingredients can yield a surprising and sometimes disappointing result. That's exactly what happened with KPMG's tax planning.

The ingredients were the incorporation of a company in a tax haven. People donate money to a company. The company then invests the money and gives the returns back to the investors in the form of donations. The individual ingredients aren't a problem. The incorporation of a company isn't an issue, and neither are the donations. However, when you put all this together, it creates an unbelievable trick that looks like fireworks. It doesn't work.

Brian Arnold, a professor at Western University in London, Ontario, once said that KPMG's strategy was like a tax-free savings account, or TFSA. It was a TFSA without a cap and designed exclusively for wealthy people. Professor Arnold also asked another person, with whom he was taking a walk, what they had to say about KPMG's planning.

The person had this to say about the planning:

[*English*]

"So let me get this straight. You give several million dollars to strangers on some island somewhere, but whenever you want some of that money, you can get it and you don't pay any Canadian tax. It seems too good to be true."

In my experience, most things that seem too good to be true turn out to be untrue.

• (1610)

[*Translation*]

KPMG said that it set up the scheme 16 times. The firm charged a fee of at least \$100,000 for each strategy, and even more, because amounts were also payable annually on the returns. Did KPMG use this strategy anywhere other than the Isle of Man? We don't know. KPMG refuses to answer this question.

In their testimony, Greg Wiebe and Lucy Iacovelli said that the firm realized back in 2003 that it had to stop using this strategy. We're now told that this strategy was used up until 2014. This strategy wasn't used up until 2010, as we thought, but up until 2014 and maybe even 2015. We even know that KPMG received fees for the strategy at least until 2008, according to a letter sent by Mark Meredith from KPMG to Cecilia Jenkins from the Canada Revenue Agency, or CRA, on January 6, 2012.

The Cooper family is the only family that challenged the notice of assessment. The Cooper family members not only went to court to challenge the notice, but they later took the bold step of making a voluntary disclosure, because they continued to use the strategy until 2015. On December 31, 2015, through their counsel, they submitted a voluntary disclosure application. The Canada Revenue Agency told them that their application was inadmissible because

they were under investigation. Their counsel even submitted a request to have the Federal Court review the Canada Revenue Agency's decision. The entire Cooper family case was subsequently settled.

We've recently heard a great deal of talk about the #MeToo movement. This movement is making people aware that criminal acts aren't subject to the statute of limitations. A criminal act doesn't stop being criminal over time. The crime committed isn't any less serious after time has passed. Economic crimes must also be prosecuted, even after all these years.

In the case of KPMG, the court must be involved. The extent of any tax evasion must be verified. I don't need to share my conclusion, which you know. However, the court must look into this matter.

A theory was created in 2012 in the Meeds v. Meeds case before the Court of Queen's Bench of Alberta. The theory is called organized pseudolegal commercial arguments, or OPCA. This theory suggests that people use arguments detached from a given reality to convince individuals that they're right.

Maybe you know the Fiscal Arbitrators. These people decided to file tax returns for clients. They would then charge them a fee. However, they created fictitious losses for them. The creator of Fiscal Arbitrators is in prison today and is serving a six-year sentence.

Is there really a difference between the creator of Fiscal Arbitrators, who promised losses that didn't exist, and KPMG's strategy, which promised donations that didn't exist? Those donations didn't really exist.

The Meeds decision states as follows:

[*English*]

A court or legal professional can explicitly and clearly respond to this category of pseudolaw. However, some OPCA pseudolaw, "Otherlaw," is entirely disconnected from "mainstream" law, and represents a "something else" category of thought, belief, and behaviour.

[*Translation*]

That's exactly what happened here.

In conclusion, I would say that a public inquiry must be held in the KPMG case. Subsection 231.4(1) of the Income Tax Act states that a public inquiry may be necessary to shed light on this situation.

If, in their wisdom, the courts conclude that there wasn't any tax evasion, so be it. However, people are currently outraged by this planning.

Thank you for your attention.

• (1615)

[*English*]

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

Mr. Vaillancourt, the floor is yours.

[*Translation*]

Mr. Claude Vaillancourt (President, Quebec Association for the Taxation of Financial Transactions and Citizen's Action): Good afternoon.

Thank you for inviting me to appear before the committee today.

The Association for the Taxation of Financial Transactions and Citizens' Action, or ATTAC, is an organization represented in several countries and on four continents. ATTAC-Québec, like the other ATTACs, focuses on tax issues in particular. In our opinion, tax fairness plays a key role in achieving greater social justice, ensuring a better distribution of wealth and developing quality public services.

Since this involves an assessment of the Canada Revenue Agency's efforts to fight tax evasion and tax avoidance, we're speaking to you, members of Parliament, today. We'll be talking about your own efforts, since the agency reports to you.

First, we want to say that we're concerned about the state of Canada's public finances. The cost of dealing with the effects of COVID-19 has been very high and will add significantly to the budget deficit. Further spending increases should be expected. The green transition, which is absolutely necessary for our economic health and for our survival as a species on this planet, will require major public investments. These investments will include major technological transformations based on energy conservation, the electrification of transportation, the transition from fossil fuels to renewable energy, and so on.

Given this situation, fiscal restraint, which has stifled us in recent years and greatly weakened our ability to respond to the pandemic, is no longer an option. This shows how much the CRA will play a fundamental role in the coming years and how much the fight against tax evasion and tax avoidance should be the focus of our collective concerns.

We're concerned about the CRA's funding, which we believe is still too low. According to the *Échec aux paradis fiscaux* collective, the Government of Canada has replenished the agency to the tune of \$500 million since 2015. The latest federal budget added \$534 million. This barely makes up for the \$1 billion in cuts made by the Harper government, even though the current needs are much greater.

The recently implemented automatic exchange of information is finally providing access to a tremendous amount of data. This will make the work of investigators easier, but will mainly require a significant amount of analysis and data processing by leading experts. A substantial investment will be needed. ATTAC-Québec is proposing that the CRA's budget be significantly increased, on top of the amounts already allocated, and that the money be spent on investigations targeting the major fraudsters, whether they're companies or individuals.

With respect to tax avoidance, we believe strongly in the effectiveness of a registry of beneficial owners, subject to the following conditions: access to the registry should be free and easy for the public at large; the information published should provide a com-

plete picture of the identity of beneficial owners; adequate resources should be allocated to verifying the information provided; and the liability threshold should be 10% of the share of the company in question, thereby reflecting the distinction between a foreign direct investment and a portfolio investment proposed by Statistics Canada. There has never been a scientific consensus regarding the effectiveness of an overly high threshold, such as the 25% threshold in the United Kingdom.

We ultimately appreciate the G7 proposal for a global minimum tax on companies. This is a good way to fight tax avoidance and the particularly harmful strategy of transfer pricing. However, the 15% minimum tax rate seems too low and could contribute to increasing tax competition between states with good taxation systems. Moreover, this rate, which is meant for multinational companies only, makes us worry about preferential treatment for them, at the expense of SMEs and individuals. At this time, significant efforts should be made to ensure that taxation is truly progressive.

Your decisions on the CRA will play a key role in the coming years to ensure greater social justice and better environmental protection. Although progress has been made, it's far from sufficient. Every effort must be made to eliminate tax havens. We hope that you'll take the necessary steps to ensure that Canada becomes a world leader on these issues, rather than continuing to take the passive and wait-and-see approach that unfortunately has been in place for a long time.

This concludes my remarks.

Thank you for your attention.

• (1620)

[*English*]

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

We will turn to the Chartered Professional Accountants of Canada, starting with Mr. St-Jean, president and CEO. Bruce Ball, vice-president for taxation, is here as well.

The floor is yours.

Mr. Charles-Antoine St-Jean (President and Chief Executive Officer, Chartered Professional Accountants of Canada): Thank you very much.

Good afternoon, Mr. Chair and members of the committee.

It's truly a pleasure to address this committee today and to be here in a different role than in the past. As the former Comptroller General of Canada, I have worked with many of you and with many parliamentarians and senior government officials, and I'm very pleased to deliver these remarks today to the committee as the president and CEO of CPA Canada. With me today is my colleague Bruce Ball, who is the vice-president, taxation, of CPA Canada.

Before I start, would you just allow me to congratulate you, Mr. Chair, on your 28 years of service to Canada and to your own province? CPA Canada has always appreciated working with you, and we wish you the very best for the future.

CPA Canada is the national organization that represents Canada's CPA profession nationally and internationally. It supports the CPA provincial and territorial accounting organizations across Canada, which have statutory authority to regulate the profession's 220,000 members. Among its many activities, CPA Canada's mission is to act in the public interest and to contribute to economic and social development.

CPA Canada has always maintained a good working relationship with the government, including Finance Canada and the CRA. Throughout the pandemic, our collaboration with the federal government has reached new levels. We have been educating members and providing them with the tools they need to support individuals and small businesses in navigating key government support programs. We've also been providing advice and expertise on where improvements are most needed, and we've been working to find solutions so that those who are eligible for the benefits are able to receive them.

[Translation]

Chartered Professional Accountants of Canada, or CPA Canada, believes that the tax system in the country is an important policy mechanism to support Canada's economic recovery and efforts to build back better. Our organization has long called for the government to conduct a comprehensive review of Canada's complex tax system, which taxpayers need to better understand in order to comply with their obligations. This is important. Our overall standard of living can be maintained only when everyone pays their fair share of taxes.

As part of its commitment to serve the public interest, CPA Canada has consistently taken a stand against tax evasion and other financial crimes that are inherently illegal, unethical and harmful to the economy and societies worldwide.

[English]

Those are not victimless crimes. Real people are harmed. It is heart-wrenching to hear the stories of those on whom these crimes have taken a terrible toll: on their health, their well-being, their families and their life savings. Our position on financial crime is clear, and it is on the public record.

CPA Canada works with the Canadian government and international organizations to improve tax regimes, combat money laundering and strengthen financial systems to counter criminal activities. For example, CPA Canada has provided input in the OECD and the B20 and participated in the private sector consultative forum on the financial action task force. We've also appeared many times before this committee and the Senate national finance committee calling for a comprehensive tax review, and both committees have endorsed our recommendations. CPA Canada has also served on the Minister of National Revenue's underground economy advisory committee.

We work also to strengthen Canada's anti-money-laundering regime through multiple government submissions, our representation on Finance Canada's advisory committee on money laundering and terrorist financing and, most recently, our participation in the Cullen commission public inquiry in B.C.

• (1625)

[Translation]

CPA Canada has also actively participated in government consultations to strengthen corporate beneficial ownership transparency since the discussions began in 2018. We're pleased to see the government's commitment in the recent budget to implementing a public registry of beneficial ownership. We believe that transparency is a critical factor in the fight against financial crime. We applaud our government.

We also welcome the federal government's commitment to increasing tax compliance, strengthening the integrity of the tax system and ensuring tax fairness.

[English]

The measures set out in the 2021 budget to fund new initiatives and extend existing programs will help to crack down on tax evasion and aggressive tax avoidance and enhance the CRA's ability to collect outstanding taxes in a timely manner.

These are important steps forward, yet more action is needed from all of us. We all share this responsibility. In the fight against tax evasion, we must realize that Canada's tax system is overly complex. We need to continue to simplify Canada's tax system, and we encourage this committee to continue with those conversations and your recommendations. In a nutshell, simplification makes compliance much easier.

As always, CPA Canada is ready to work with parliamentarians to advance this effort.

Thank you, Mr. Chair and members of the committee. Monsieur Ball and I welcome your questions.

The Chair: Thank you very much, Mr. St-Jean.

As you know, we recommended a comprehensive tax review at this committee a couple of times ourselves.

We'll start questions with Mr. Falk, Mr. Fragiskatos, Mr. Ste-Marie and Mr. Julian. Mr. Falk, you have six minutes.

Mr. Ted Falk (Provencher, CPC): Mr. Chair, give me six minutes and 15 seconds to start with to allow me a brief moment to thank you for your many years of service to not only your constituents but your province and country.

I remember when I was first elected to the House seven and a half years ago, and we were together on the public accounts committee. You sat on the opposition side all by your lonesome as a Liberal. I remember what a statesman you were as an opposition member, and now I've gotten to enjoy you as a committee chair. I've found you to be just as much a statesman, if not even more so. You've been courteous, respectful, tolerant, and certainly you've been non-partisan in the adjudication of your position, so I thank you, Wayne. I thank you for your friendship. You've not let your job interfere with your friendships, and I thank you for that.

Now I want my six minutes to start.

Thank you to all of our witnesses here for testifying at committee. I've appreciated the input that you've given into this very important topic that we're discussing about combatting tax avoidance and evasion.

Mr. Lareau, I was particularly interested in your analysis of the KPMG situation and the tax havens that *The Fifth Estate* has tried to document for Canadians. Some folks have found themselves out of their life savings, and hardships have been created by the tax scheme that was entered into by many unscrupulous people with the help of KPMG, it appears.

I'm going to move past that, though. Mr. Lareau, I want to ask you a question about the more current environment that we have. The Prime Minister, in his 2019 mandate letter to the Minister of National Revenue, instructed the minister to "seek new ways to counter tax avoidance and evasion by wealthy individuals", "enhance our existing tax avoidance and evasion whistleblower programs", and "look for more opportunities to invest resources that help crack down on tax evaders".

Mr. Lareau, in your opinion, has the government taken meaningful action in accomplishing that objective?

Prof. André Lareau: What has been done is in the right direction. Yes it is, but it is not enough. You may want to crack down on tax evasion; however, if you don't have the means to find the people who practise tax evasion, you'll never find them. This is the main problem, because our court system is way too lenient towards tax evasion, and in fact it is not only the court system but the CRA and Justice Canada as well.

Arthur Cockfield recently mentioned in a publication that in the U.S., KPMG had an almost \$550-million fine in 2005. You would never see that in Canada. Why? It is because, unfortunately, we don't work that way.

The measures that were taken were good measures, but we now have to focus on the people who hide money. If you don't do anything against KPMG, the consequence is that the large firms will think, "Let's do it again; there are no consequences to what we're doing."

• (1630)

Mr. Ted Falk: Okay.

You alluded a little bit to the United States and the amount of the fine that was issued there against KPMG. How do we compare with other jurisdictions in going after people that are looking to evade taxes?

Prof. André Lareau: I have been retired from the university for the last four years. I haven't studied what's recently been done in other countries, so I can't give you the correct response.

Mr. Ted Falk: Maybe I'll go on to another question.

We have tax treaties with other jurisdictions. Can you talk a little bit about how they may facilitate tax evasion and tax avoidance?

Prof. André Lareau: Well, they facilitate communication and discussion with other countries, but if you don't have a tax treaty with most of the tax havens, then you don't have the communication. You don't have the information. That's a problem. With the other 95 or so countries that we have tax treaties with, it's easier. Unfortunately, you don't have those treaties with tax haven countries.

Mr. Ted Falk: Good. Thank you.

I'm going to shift my questions over to the Chartered Professional Accountants of Canada.

Mr. St-Jean, as part of your presentation to this committee, you have talked several times about a complete tax system overhaul. Can you comment on how you would envision a tax overhaul helping to address the issue of tax evasion and tax avoidance?

Mr. Charles-Antoine St-Jean: I will start the answer to your question and then I will ask my colleague Mr. Ball to complete it.

When you look at the overall tax code in Canada, you see that it's over 3,000 pages. It's very difficult for people to comprehend the various complexities in the tax code. A better definition of "taxable income" and of various streams of income would be quite helpful.

Maybe I could ask my colleague to provide some perspective on how to go about it specifically. Bruce, could you complement that question?

Mr. Bruce Ball (Vice-President, Taxation, Chartered Professional Accountants of Canada): Sure. Thank you.

We were looking for an independent process, also with the input of the government, to basically have a look at all the tax rules and consider whether they made sense. We could do a review of all our tax expenditures, for example, to make sure that where we do have tax expenditures, they are actually working. We could identify areas that are complicated in the tax rules. There has been a lot of discussion about smaller companies and small businesses having trouble complying because of complexities; let's see if we can simplify that sort of thing. There have been issues in terms of individuals getting access to benefits. Again, we could review the system of tax credits and the tax benefits for lower-income individuals to make sure they are able to access those as well.

Generally, do a complete review. It has been 50 years. I think it's long overdue.

Mr. Ted Falk: Okay. Thank you—

The Chair: Sorry, Ted. We are a minute over, even with giving you that first comment back to zero.

Mr. Ted Falk: Thank you, Mr. Chair. You have been generous, as usual.

The Chair: Next is Mr. Fragiskatos, followed by Gabriel Ste-Marie.

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

I will begin in the same way. I think you have to get used to it, Chair. It's just one of these things. I know you're modest. You don't like the attention on you, but it's the reality.

I think we all share a level of respect for you, Wayne, that really cannot be expressed in words. You are an example for all MPs, particularly newer MPs like me. I think whenever this time in office comes to an end for me, whenever that might be, if I can look back on it and say that I was half as good an MP as Wayne Easter, then I will have achieved a great deal.

Thank you for everything you have done. It's greatly appreciated.

• (1635)

The Chair: Thank you.

Mr. Peter Fragiskatos: Perhaps I could begin with you, Mr. Lareau, and then go to Mr. Vaillancourt and Mr. St-Jean on this question as well. It relates to international jurisdictions. To be simple about it, who does it well? If we look at countries that have put in place measures to effectively deal with the challenge of avoidance and evasion, who can we best look to?

I'll start with you, Mr. Lareau, go to Mr. Vaillancourt, and round it out with Mr. St-Jean.

Prof. André Lareau: They all have problems with people who hide money. Obviously the U.S. put more money into the IRS. Their penalties are much more severe than what we have here. The European Union tries, as a whole. All the countries of the union try, but obviously each country individually has the same problem, because they cannot find what is hidden. They all have the same problem. Nobody has a perfect score, but the more significant penalties in the U.S. perhaps give them an advantage because the criminals will be less inclined to act there.

[Translation]

Mr. Claude Vaillancourt: One current issue is that no one is doing anything. Each country is waiting for the other country to respond. We then end up in a sort of spiral of inaction that's ultimately counterproductive.

That's why, in our presentation, we asked Canada to become a leader in the fight against tax avoidance and tax evasion so that it can take a firm stand. There are some good models, including the Biden administration, which has become much more active in addressing the issue of tax havens.

It should be noted that the CRA's equivalent in the United States is currently much better funded. According to our calculations, it receives about 30 times more funding. When we say that more money can be invested in fighting tax fraud, I think that this is a very good example.

If the United States is doing it, why shouldn't we?

[English]

The Chair: Go ahead, Mr. St-Jean.

Mr. Charles-Antoine St-Jean: Thank you.

To build on what Professor Lareau said, I think nobody has the magic formula today for how to deal with this situation. It's a very complex matter. Criminals have different ways of doing it. Are there some better practices in various countries? Well, nobody has the perfect solution. Higher penalties could be part of the solution, but a better exchange of data and better treaties are also part of the solution. It's a very complex issue that cannot be solved quickly by *un bouton magique*.

Mr. Peter Fragiskatos: I'll stay with Mr. St-Jean, if I could.

Mr. St-Jean, do you any thoughts on international tax treaty reform that you could share with us?

Mr. Charles-Antoine St-Jean: My colleague Monsieur Bruce Ball is much more of an expert in taxation issues than I am, so maybe I could ask him to help me out with this one.

Mr. Bruce Ball: This is really tied in to the previous point. When I look at the situation, I look at what the CRA has in comparison to other countries. Mr. Gallivan laid out what the CRA has been doing recently, and there's more coming. There's more mandatory reporting and that sort of thing.

I think the biggest thing is access to information. That's a key part of tax treaties, the ability to share information with other countries. That is happening with country-by-country reporting and that sort of thing. There is more discussion going on among tax administrators around the world. I think that's a key part. Penalties are obviously important, but I think also transparency as well. In addition to the international reporting, we're also looking at a corporate registry in Canada.

I think you have to look at all of these things combined. I don't think there's one magic solution to the issue.

• (1640)

Mr. Peter Fragiskatos: Thank you very much.

How much time is remaining, Chair?

The Chair: You have a little over a minute.

Mr. Peter Fragiskatos: Perfect.

I'll remain with Mr. St-Jean.

I take your point, Mr. Vaillancourt, about resources, but I'm happy to see that this government has pivoted in important ways. We did see the previous government under Mr. Harper make very significant cuts to the CRA.

Mr. St-Jean, you've talked about the most recent budget, budget 2021, and a number of measures there to deal with this problem of avoidance and evasion. I wonder if you could expand on that and talk about the potential that we have through the budget to deal with the problem in a meaningful way.

Mr. Charles-Antoine St-Jean: Thank you for the question.

The recent budget, budget 2021, is providing significant new resources or additional resources to the CRA. This is very much welcome. There are more resources on the legal side that are also provided to the department, and also more help is on the way to make better use of artificial intelligence to see patterns. These are all measures that will be helpful. The money and the people who have been promised in the budget are very welcome and will make a difference, no question.

Mr. Bruce Ball: Maybe I'll jump in, if that's okay.

The Chair: Yes, go ahead, Bruce.

Mr. Bruce Ball: There were a number of important changes in the budget. I mentioned the mandatory reporting: There will be more requirements to report transactions and plans that are more aggressive. They're going to show a list of transactions and also whether the transactions have one of the three hallmarks.

They're also going to be doing more on the international side. There's a proposal to deal with hybrid mismatches, which has been a large international issue over the years, and interest deductibility as well. There's a review of the general anti-avoidance rule coming, and that will be significant as well.

The Chair: Okay. Thanks, all of you.

We now have Gabriel Ste-Marie, followed by Mr. Julian. We're on our six-minute round.

[*Translation*]

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

I want to extend my greetings to all the witnesses here today.

I want to thank them for being here. They provide some very valuable input that I hope will advance the work of the committee.

Before asking my questions, I'll say a few words to the chair.

Mr. Easter, you're an exemplary parliamentarian and committee chair. It's truly a pleasure to serve with you. I find you sometimes tough, but always fair. I tip my hat to you. I'm still shocked by the news that you won't be with us after the summer break. We'll certainly miss you. We'll certainly still have the opportunity to squabble, since we have a few meetings left. Thank you for everything.

My first questions are for Mr. Lareau.

Mr. Vaillancourt and Mr. St-Jean, if you want to add anything, feel free to speak.

Mr. Lareau, in response to Mr. Falk's question, you said that it was very important not to let the matter rest in the KPMG case. If nothing were done, it would send a kind of message of impunity to companies that create these types of schemes, such as shell companies.

What do you think should be done by the minister—you spoke about her investigative powers—by the government and by the committee?

Prof. André Lareau: Tax evasion is a crime. Yet, no matter how many provisions there are in the law to prohibit this crime, it must still be discovered, detected. We must therefore act upstream. We must discourage people who are tempted to commit economic

crime. As long as the Canada Revenue Agency offers large sums to KPMG clients for voluntary disclosures, the situation will not be resolved.

This all came from the agency, which wrote this to KPMG: “We invite your clients to file voluntary disclosures.”

The Cooper family was sent notices of assessment until 2010. More recently, we learned that it was until 2015. There has been a settlement in the case. We definitely need the CRA to take much tougher action.

In the case of KPMG, particularly, there needs to be a public inquiry or, simply, criminal complaints filed, which the court can evaluate to really get to the bottom of this whole thing. KPMG is refusing to answer your questions and get to the bottom of this. If KPMG is not required by a court to come and testify, no one will know anything. Is KPMG acting elsewhere, in other countries, using the same strategy? In addition to the 16 taxpayers, are there others?

We do not know. However, we do know that Mr. Barry Philp of KPMG wrote the following in 1999:

• (1645)

[*English*]

“It is not unreasonable to expect that if Revenue Canada were fully apprised of the proposed arrangement, they would seek to have offshore companies treated as a deemed resident of Canada, in which case it would be taxable as if it were income.”

[*Translation*]

In 2002, he added the following regarding the protection offered to the Cooper family in connection with the share capital: “This should be done in a separate agreement and not in the share capital.”

[*English*]

“This had the decided advantage of not being in the public domain, as are the articles.”

[*Translation*]

We can see that they want to hide all this. Therefore, severe sanctions must be imposed: a criminal trial against KPMG and against the actual people who devised this scheme. Of course, the agency also needs to be much more forceful. We are talking about tax evasion.

If we were talking about tax avoidance, I would say amend subsection 245(4) of the Income Tax Act, which provides for a reverse onus; the CRA, or Justice Canada, then has to prove that there was tax avoidance. It is then no longer up to the taxpayer to prove that they did not avoid paying taxes. However, this burden of proof is very difficult to establish. The reverse onus in subsection 245(4) should be removed.

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

Mr. Vaillancourt, do you have any comments to make on this matter?

Mr. Claude Vaillancourt: I completely agree with Mr. Lareau. I find it totally unacceptable that a company of this importance, a recognized company, should engage in such manoeuvres which go against the interests of the citizens of Canada.

We have to wonder whether the government has entered into contracts with such a company. If that is the case, could they not be terminated?

Wouldn't this be another way to penalize this company, which is doing something that is completely unacceptable today?

I think the Canadian government should ask itself what it can do about this problem. For example, it could cancel contracts with other companies acting in a similar way. That is what we suggest.

Mr. Gabriel Ste-Marie: Thank you.

Mr. St-Jean or Mr. Ball, did you want to add a comment?

Mr. Charles-Antoine St-Jean: I have no further comments to add on this matter.

[*English*]

Maybe my colleague Bruce does.

Mr. Bruce Ball: No, not really. I believe Quebec actually does have a rule that compares tax positions taken by companies when they enter into contracts with them. I think there might be something there to look at.

[*Translation*]

Mr. Gabriel Ste-Marie: So we could be inspired by what is also done in Quebec. Thank you, Mr. Ball.

Mr. Lareau, in the case of KPMG, you alluded to what was done in the United States. I believe KPMG had used a similar scheme in the United States, and the Internal Revenue Service, the IRS, immediately brought out the heavy artillery. It really didn't work that way in Canada.

Could you comment on this and give us some possible avenues of solution that could be followed by the Canada Revenue Agency, the minister or the government?

Prof. André Lareau: This was in relation to advance tax planning, and KPMG got caught in this situation. KPMG and the individuals themselves were committed to stand trial. There were fines totalling \$450 million as well as the possibility of jail time. I don't know if there were any, because I can't remember the full decision.

Let's compare the KPMG situation with that of Fiscal Arbitrators, which I mentioned earlier. The information I have is that there were aggravating circumstances in a tax case for which people were sent to prison; there was a high level of preparation of the fraud involving several people and the sophistication of the fraud was demonstrated by, among other things, the use of an accountant. So people were sent to prison because they had used the services of an accountant, even though they were accountants themselves.

There was also the fact that there was an attempt to evade the amount of tax, which was in excess of \$1 million, the fact that public funds were put at risk, the fact that the fraud took place over a period of almost a year, and the fact that after repeated requests

from Revenue Canada, the individual continued his actions, as was documented.

In short, people continued to perpetrate their crimes, and it's the same thing in the case of KPMG. We were told that it was over, when it was not. It continued until 2015.

● (1650)

Mr. Gabriel Ste-Marie: Thank you.

[*English*]

The Chair: Thank you all. We'll turn to Mr. Julian next.

Mrs. Jansen is the next questioner on the Conservative side, but I don't see her on my screen.

Oh, she's in the room. Great.

[*Translation*]

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

I will not filibuster with respect to Mr. Easter. I had already commented on that. We will probably have a chance to talk more about it in the next few days.

I thank our witnesses for being with us today. We hope that their families and loved ones are safe in these pandemic times.

My first questions are for Mr. Lareau.

Mr. Lareau, thank you very much for being with us today.

In a few meetings a year ago, we met with representatives of the Canada Revenue Agency, and we also met with them last week. We asked them why none of the individuals and firms featured in the tax haven documents and the Panama Papers had been prosecuted. One year later, nothing has changed. There are no ongoing legal proceedings.

In 2016, you were supposed to testify before this committee, but that didn't happen and you didn't get a chance to give your opinion on the situation.

We are still wondering why there is such a lack of willingness to go after KPMG, other accounting firms and wealthy individuals who are defrauding the system.

There are two parts to my question.

First, what would you have said in 2016, had you had the opportunity to testify before the committee?

In your view, is the situation different today?

Prof. André Lareau: In 2016, we did not know that the strategy had been used after 2010. Today, we know. What I would have said in 2016, I have said to you today. I think I would have made the same argument then.

One thing is certain: the KPMG representatives told us that in 2003 they had learned their lesson and had stopped using this strategy. They implied that they didn't want to do that anymore. They seemed to acknowledge that they were wrong.

Either they decided to acknowledge that it was a crime, in which case criminals should be prosecuted, even 18 years later, or they just got caught red-handed. My theory is that they were caught red-handed and thought it wasn't worth it. So they decided to make amends and distance themselves from this a bit.

The answers they gave to the questions you asked them show that they have no willingness to co-operate. The behaviour of this accounting firm is in no way indicative of a desire to co-operate, to be fiscally transparent and to stop tax evasion. On the contrary, it sends you packing and simply tells you that it will not answer questions on the grounds of professional secrecy.

Yet the committee has every power to compel KPMG representatives to answer its questions. This professional secrecy does not protect accountants as they would have us believe.

• (1655)

Mr. Peter Julian: Thank you.

The committee intends to ask representatives of KPMG to answer these very questions.

At the last committee meeting, we learned that one of the front companies was shut down by KPMG this year, just weeks after the whole affair was revealed by the television programs *Enquête* and *The Fifth Estate*. Some companies continue to employ these schemes.

You also mentioned a public inquiry. Do you think a public inquiry should also look at the impact of tax frauds like the one committed by the founder of the Cinar production company? This was perpetrated on retired people who have lost all their savings; justice needs to be done for these people and they should get answers to their questions.

Prof. André Lareau: A public inquiry must still target certain specific situations. You can't have a public inquiry into tax fraud in general, because that would get you nowhere.

If you are investigating KPMG or Cinar, which caused a lot of people to lose money, you have to target some of the most problematic situations. That way we can get somewhere.

There does have to be an inquiry that will give the commissioner and the investigators sufficient powers to demand the information, otherwise there would be consequences for people who refuse to co-operate. There has to be an investigation, but it has to be about certain specific situations.

Mr. Peter Julian: I would like to ask a final question about the consequences of double taxation avoidance agreements.

The current government signs agreements with countries that are considered tax havens. What are the potential repercussions of having this double taxation avoidance provision? We know that a person can declare income in one country, such as the Bahamas, where the tax rate is 0%, and then get that money back in Canada.

Prof. André Lareau: This situation crops up often for Barbados, because we have a tax treaty with them, and in the case of the Bahamas, because we have an exchange of information agreement with that country.

Canada has tax information exchange agreements with about 20 countries. The tax information exchange agreement allows resident companies in those countries to pay tax-free dividends to Canadian parent companies.

So they pay no tax there, and the dividends come back to Canada tax-free. This is totally absurd. Under the guise of wanting to sign these information exchange agreements, Canada's power to tax corporate profits has been let go, when the objective is not being met at all.

You mentioned the Panama Papers and the tax haven documents. We can see that we didn't get the information that we should have managed to get. We can make a comparison with what the United States obtained. As our population is equivalent to 10% of the American population, we could have hoped to obtain 10% of the revenue. But that's not the case at all, we got absolutely nothing.

[English]

The Chair: Thanks, all of you.

Following Ms. Jansen will be Ms. Dzerowicz. Ms. Jansen, all the way from the committee room in the West Block, the floor is yours.

Mrs. Tamara Jansen (Cloverdale—Langley City, CPC): First, Mr. Easter, over this time that we've been working together, I have detected a farmer's heart in you, and I'm very thankful for that. When you were going to make an announcement, I thought that maybe you were going to cross the floor and come to the good side.

Voices: Oh, oh!

Mrs. Tamara Jansen: It has been a pleasure to work with you. Thank you very much.

Now I'll go back to the matter at hand. Mr. St-Jean, we are here to evaluate the CRA's progress in regard to tackling tax evasion. I want to go back to 2015, when Prime Minister Trudeau said that the wealthiest Canadians were using small business tax rates to reduce their tax bills. He was basically calling small business owners tax cheats.

At the time, I was one of those people out there delivering flowers to customers in the heat of the summer, sweating it away in the old Hino truck with no air conditioning, which was, according to him, nothing more than a clever tax haven. I have to say that I was really insulted, as I believe many other small business owners were.

Now here we are in 2021, and the Liberals have thrown billions of dollars at the CRA to expose these supposed small business tax cheats. I know that the CFIB said at the time that his assumptions were seriously flawed, and so far there appears to be no evidence whatsoever that he was right. Does it make any sense for the Liberals to have developed this tax policy and hired so many new staff based on those assumptions, especially when we see that the CRA makes deals with the big tax cheats but keeps going after the little guy?

• (1700)

Mr. Charles-Antoine St-Jean: Thank you very much for that question.

I think we saw that the last budget was talking about investing a lot more money in tracking the tax data, getting better systems and getting more legal firepower to the CRA to help combat tax evasion. This is the way we read the announcement from the government, which we support, but I will let my colleague Bruce Ball comment especially on the small business tax.

Mr. Bruce Ball: Maybe I'll start with the first part of the question. I do know that a lot of businesses took exception, I guess, to the suggestion that they were somehow doing something wrong, and I'd agree that the majority aren't.

The issue is the underground economy. There are still business people and other people doing activities in the underground economy. Over the years we're working with CRA in trying to find ways to have these individuals or these companies come forward. Typically they're individuals, because corporations can be tracked, and there will be more of that with the registry, but it's to have these individuals come forward. We've been talking to them about education and taking advantage of the voluntary disclosure program and that kind of thing.

In addition to the money for verification, I think it's also important for the government to continue to try to get people out of the underground economy and to come forward and become compliant taxpayers.

Mrs. Tamara Jansen: Maybe I'll continue with Mr. Ball.

How do you think we can expect ethical behaviour from regular Canadians when our government so blatantly and repeatedly is flaunting ethics laws? I don't know how we can expect Canadians to be better than the government.

Mr. Bruce Ball: Well, I don't think I'm really in a position to comment on the ethics side.

I think it's incumbent on all of us to be compliant taxpayers, though, and I know that our members—CPAs—work with people who want to be compliant taxpayers and do the reporting that needs to be done.

Mrs. Tamara Jansen: I couldn't agree with you more. I know that we've been very thankful to have accountants who were honest and wanted to help us make sure we could sleep at night because we did the right thing.

Last week at the finance committee, I asked the CRA's Ted Gallivan why they were continuing to target small business owners with audits during a pandemic, and he proudly told me they had initiated

a six-month pause on those audits. Considering that this pandemic has been going on for more than 15 months, would you say that aggressive audits are just another way of going after the easy target rather than the big tax cheats?

The Chair: That'll have to be the last question, Mrs. Jansen.

Go ahead.

Mr. Bruce Ball: I was listening to the conversation last week. I'm not sure that they were auditing small businesses generally.

What Mr. Gallivan said agreed with what I thought. They were doing reviews of the assistance programs, so maybe that was part of it. They were reviewing the wage subsidy applications and later the rental applications. I'm not quite sure what the audit activity would be if it wasn't around some of the support programs.

The Chair: Thank you both. That's interesting information.

We have Ms. Dzerowicz and then we'll be back to Mr. Ste-Marie for a short round.

Ms. Julie Dzerowicz (Davenport, Lib.): Thank you so much, Mr. Chair, and of course I'm going to start off the same way everyone else has.

I too want to thank you so much for your leadership. You'll be extraordinarily missed. You are absolutely a noble example for all MPs. You very much set an example of the kind of MP that we strive to be—at least I do. I'm only mad that you're leaving before we could have an oyster and lobster festival, so we might have to visit you in P.E.I.

With that, I will start with my first question.

At our last session, we learned that the federal government has indeed made, over the last five or six years, significant investment in tackling and combatting tax avoidance and evasion. We've actually recouped \$5 billion from that \$1-billion investment.

We've also heard that globally we're ranked about nine or 10 out of 80 in terms of identifying tax and being very successful in our efforts. Of course, we could always be more effective.

We also heard a little bit about some of the encouraging signs we've seen in voluntary disclosure, which has been great. I'd like to know how we can encourage more voluntary disclosure.

I have a second question around that. We know that a lot of the complex cases are coming before our courts. It's because it's cost-effective for these big companies to pay a million or two million to avoid paying \$40 million in taxes.

I wonder what more we can do to make it less attractive to engage in these types of tax court cases.

Perhaps I could start off with Mr. St-Jean and Mr. Ball. Could you respond to that?

• (1705)

Mr. Charles-Antoine St-Jean: Thank you for the question.

On the question of litigation for taxes, there are a lot of dynamics around it. Many taxpayers say they'll go to court because they have an expectation that they will win. They have a valid case. People don't just do it for fun. I think there's that dynamic at play.

We were discussing that very question before the testimony today, so maybe Bruce could comment.

Mr. Bruce Ball: Sure. Maybe I'll talk about the voluntary disclosure part first and then the court case part.

Voluntary disclosures are tough. You don't want to be too easy on the people who maybe were intentionally not complying, but at the same time you want to make sure that those who want to be compliant can come forward and do it in a reasonable way.

I haven't done much over the years, but in the few circumstances I was helping out on a voluntary disclosure, it really brought peace of mind to people. I think it's really an education point.

On court cases, I'd agree with what Charles-Antoine said. The other thing I'd add is that we, CPA Canada, have been working with the CRA in terms of the objection process. That's the step before you get to court to try to head off some issues. There are cases that make it into court that are legitimate disagreements. We've been pushing to see if we can do more of that before it goes to court and to have some way to resolve tax disputes without going to court first.

Ms. Julie Dzerowicz: Thank you.

My other question is around the global minimum tax. There was a big announcement last weekend or two weekends ago.

Is that going to be helpful in terms of combatting tax avoidance and tax evasion in any way?

Mr. Bruce Ball: I assume that's still to me.

It should be. The idea is that the corporate minimum tax would fill in the gap. If you have a company in Canada that's headquartered here and does business in another country, the corporate minimum tax would bring the effective tax rate up to 15%. The idea was that if they were paying 5% in the other country, then you'd be able to charge another 10% on income attributed to that country in Canada.

I think it could be effective. We'll have to see how it plays out. This is a brand new concept, but it has the potential to reduce the profit-shifting issues under BEPS, so we'll see how it works.

The Chair: This is your last question, Julie.

Ms. Julie Dzerowicz: Okay, great.

My last question is on penalties. Do we have any other constructive ideas about how we can further punish tax evaders from a penalty perspective?

Mr. Bruce Ball: From my perspective, I don't know if I have any.... We have a criminal system and a civil penalty system. I think

if it's deemed that they're not sufficient, I think they should probably be reviewed. I don't think I have any other ideas.

• (1710)

Mr. Charles-Antoine St-Jean: It's the size of the penalty.

Ms. Julie Dzerowicz: Do you think we could increase it, and that would make it more...?

Mr. Charles-Antoine St-Jean: That could help.

The Chair: With that, thank you all.

We'll turn to two-and-a-half-minute rounds. We will go to Mr. Ste-Marie and then Mr. Julian, and then Mr. Kelly.

[*Translation*]

Mr. Gabriel Ste-Marie: Thank you.

Let me come back to the question that was just raised.

If I'm not mistaken, the penalties in Quebec are 30%, while the Canada Revenue Agency imposes 0% penalties for voluntary disclosures. If we take the KPMG case in the U.S., the penalty was 50%, plus criminal prosecution, among other things.

So we can build on that, Ms. Dzerowicz.

My next question is for Mr. Lareau and Mr. Vaillancourt, but the CPA Canada representatives may also intervene.

In the Cinar, Norshield and Mount Real affair involving their executives, including Mr. Weinberg, thousands of small investors were cheated. I was very touched by the testimony of Ms. Watson, one of these defrauded investors, who came to testify before the committee. What has happened is appalling. Nearly \$500 million has disappeared, most of it unaccounted for.

What can we do? What can the government do? What can the minister do? What needs to change so that situations like this do not happen again and we are able to find and get the money back?

The companies with the sword names are related to this. The CBC/Radio-Canada reports make a very compelling case that KPMG is connected to these companies, because KPMG had a shell company registered at the same time that these four companies were registered. KPMG tells us that this is not the case. We have asked its representatives and they have written to us saying that they have examined their documents going back ten years. They stand by their denial.

What can be done to get justice in such a case and to ensure that it never happens again?

Mr. Lareau, I would like to have your comments first.

Prof. André Lareau: The struggle in this case is the result of a lack of information. We don't know what is going on. And I repeat: we cannot control what we do not see, as the journalist Laurent Laplante used to say.

We must therefore be able to demand accountability. It must be the courts that demand accounts. Accounting firms will have no choice but to respond adequately to court demands, or the penalties will be severe. As soon as all the information is obtained, a proper analysis can be carried out, but until we have the information, we cannot analyze it. People have this information, and they have to disclose it. We need to force the disclosure of information.

Mr. Gabriel Ste-Marie: Thank you.

Mr. Vaillancourt, do you have anything to add?

Mr. Claude Vaillancourt: The current problem is that absolutely colossal sums of money are disappearing without any way of tracing them. This means that there's a basic problem, which is fundamental.

One of the solutions we see to this problem is the beneficial ownership identification regime, which would no longer allow numbered companies to exist, where the identity of the owners may be impossible to trace. In my view, such corporations are an unacceptable way of making fortunes disappear.

This system must be put in place as quickly as possible, it must be as effective as possible and, of course, it must meet the conditions I mentioned earlier, which I won't repeat.

In our opinion, this is really something fundamental that needs to be done right away.

Mr. Gabriel Ste-Marie: In this regard, the House has just adopted a motion moved by my colleague Stéphane Bergeron. It is a private member's bill. We hope it will be used to solve the problem.

Mr. St-Jean, do you have anything to add?

Mr. Charles-Antoine St-Jean: I was going to agree with Mr. Vaillancourt. The system in question will then provide new means to prevent this kind of thing. It won't be perfect. When there are criminals, there are criminals, but at least there will be one more tool to reduce risk.

So we fully agree with the recommendation to put the regime in place as quickly as possible.

Prof. André Lareau: If we are dealing with a company from the Isle of Man, hidden in the Isle of Man, and no disclosure is made, it's impossible to trace it. We are then playing hide and seek. However, when we play hide and seek, the goal is to hide. Even the best registry in the world won't give us the information if they don't want to put their name on it.

[*English*]

The Chair: Okay. Thank you all.

Mr. Julian, you have about three minutes.

Mr. Peter Julian: Thanks, Mr. Chair.

I'd like to ask my next questions to Mr. Vaillancourt, Mr. St-Jean and Mr. Ball.

As has been pointed out, the Norshield and Cinar frauds caused massive amounts of money to be taken from Canadians, wiping out their life savings—\$500 million—yet the government has done nothing to follow up on that fraud. It's really the tip of the iceberg. The Parliamentary Budget Officer has evaluated what Canadians lose every year in tax dollars at \$25 billion. When we look at all the problems that Canadians are facing—lack of affordable housing, the struggle to make the transition to clean energy, the lack of safe drinking water in indigenous communities—we see that \$25 billion a year could resolve so many of those issues that Canadians are having to confront.

My question is twofold. First off, what should the government be doing now to get to the bottom of the Cinar and Norshield frauds and the KPMG linkage with the Isle of Man? Second, are you in agreement that this is a massive amount—\$25 billion a year—of taxpayers' money that is essentially being lost to these overseas tax havens and frauds, money that could be so important to raise the quality of life for so many Canadians?

• (1715)

[*Translation*]

Mr. Claude Vaillancourt: I say this as a citizen because I'm not really an expert in this field.

You're absolutely right, Mr. Julian, that we're going to need incredible amounts of money over the next few years.

The energy transition and the green transition will be expensive, and major public investments will have to be made. We have learned that there are holes in which huge amounts of money are completely buried and that, in addition, we don't have the necessary means to go after them. In my opinion, we need to do everything we can to remedy this situation. I think that all kinds of organizations, such as the Canadians for Tax Fairness group and the Collectif Échec aux paradis fiscaux, have a series of solutions. Read their documents, read what they advocate. I don't have time to explain it in a few minutes, but it's all there.

You also have experts at the Canada Revenue Agency who are able to find solutions. We really need to address this problem as quickly as possible, because we have an urgent and considerable need for money. We are making a significant transition, and we need all our money to do that.

The situations you mentioned, Mr. Julian, must not happen again, and it is the responsibility of elected officials to ensure this.

[*English*]

The Chair: I believe Mr. Ball or Mr. St-Jean wants to add something.

Mr. Charles-Antoine St-Jean: I'll add a point on the \$25 billion. No doubt it is a very important number. It's very, very important that everybody pays their fair share of taxes. It's a civic duty.

There are many things that can be done from an enforcement perspective, but it's also a question of education. We firmly believe in having more education on why it is important for people to pay their fair share of taxes and in having those discussions to change their behaviour to enable that to happen. Social education would be helpful to close that gap, because that money will be needed. As Mr. Vaillancourt said, we need that money going forward, so the more we can do as a society, the better we all will be.

The Chair: Thank you.

We're back to five-minute rounds. We'll start with Mr. Kelly and then go on to Ms. Koutrakis.

Mr. Pat Kelly: Thank you.

Mr. Lareau, what, if any, changes are needed to Canadian law to enable vigorous prosecution of overseas tax evaders?

[Translation]

Prof. André Lareau: The answer lies primarily in the penalties imposed by the legislation. It also lies in the latitude given to the Canada Revenue Agency and in the financial means, of course, that will be given to the CRA to detect tax fraud.

[English]

Mr. Pat Kelly: My question was really this: Are changes to the law necessary, or is it a matter of...? I guess now you're getting into other reasons that are not rooted in changes to the law, so if changes to the law are not needed, is it just a question of resources, a question of willingness or a question of raising penalties?

• (1720)

[Translation]

Prof. André Lareau: The Income Tax Act contains a provision that targets tax advisors who engage in improper practices. But there are no criminal penalties, only administrative penalties. This is like telling tax advisors that this is the only penalty they will face if they commit a crime, but it isn't. There are legislative provisions that allow for tax advisors involved in the commission of the crime itself to be targeted as well.

[English]

Mr. Pat Kelly: Thank you.

Mr. St-Jean, we've seen, over the last Parliament and in reports and whatnot in this one, terrible problems of basic competence at the CRA. The Auditor General's report on call centres pointed out that a full 30% of the answers given out at those call centres were false or that erroneous information was given to taxpayers. We've all seen that their website has incorrect information on it, which, if tax filers followed it, would lead to their actually being in breach of the Income Tax Act.

How does the quality of information and misinformation given out by the department itself erode confidence in the system and in fact the very nature of the self-reporting system that we rely on?

Mr. Charles-Antoine St-Jean: Thank you for this question.

There's no doubt, when we see those reports from the AG and others, that we have to say this is not helpful. The CRA, like other departments and all of us, needs to do better. They're investing in more people. They're investing in new information systems.

Mr. Pat Kelly: I'm sorry, but my question was not really.... Recommendations to fix the problem were made, but I'm getting at some of the root causes of non-compliance.

Is there a risk, when the system doesn't work, that the incentive to comply will actually be eroded?

Mr. Charles-Antoine St-Jean: As we've said a number of times to members, we find the current tax code very, very complex. This committee has made a recommendation many times. By making it more complex, you're making it more difficult to comply. The average Canadian has great difficulty. It's a 3,000-page code. It's very difficult to comply with, and that is one thing that really does not help compliance.

Mr. Pat Kelly: Indeed.

I have one last question, and I'm not sure who to put it to. Maybe I'll go back to Mr. Lareau.

What do you make of the voluntary disclosure process? We heard from officials last week that they were not pursuing as many voluntary disclosure settlements as other jurisdictions were, and they cited that as justification for the relatively low numbers—well, the non-numbers—of convictions in the case of the Panama papers.

What do you make of this? Should we feel better that they're not letting these individuals off with voluntary disclosure agreements and just be more patient on actual prosecution, or is this just an outright failure to do anything about the Panama papers in particular?

Mr. Charles-Antoine St-Jean: I think we could ask my colleague to answer the question on voluntary disclosure.

Mr. Bruce Ball: Thanks.

As I sort of alluded to before, I think the issue that the CRA has been facing is an either-or kind of thing. On the one hand, they want people to come forward. If they're going to be penalized, they aren't going to come forward, so if someone's thinking that they'd like to become compliant, handing them a penalty if they do is not going to help bring them around.

I think the flip side is that people were critical of the CRA for allowing voluntary disclosures on international issues. I think that's what the CRA people were talking about last week—tightening up the rules so that doesn't happen, in other words, for people who are doing international transactions in particular, and there were some other things that they tightened up in the rules.

• (1725)

The Chair: Mr. Lareau, go ahead on Pat's last question.

[Translation]

Prof. André Lareau: Voluntary disclosure will be done by someone who is feeling the heat.

As for international tax evasion, since the Canada Revenue Agency's record in this regard isn't very good, why would someone who has hidden their money outside the country agree to make a voluntary disclosure, when they know full well that the agency isn't going to take the necessary steps to retrieve it outside the country?

So people won't be making voluntary disclosures because they know that they won't be caught and that we won't try to find someone who has hidden money outside the country. So there is no incentive for people to make voluntary disclosures.

There have been quite significant voluntary disclosures in the past, of course. We remember Brian Mulroney, who voluntarily disclosed income several years later and paid half the taxes owing. These are sad situations, but people remember them.

It should also be remembered that the United States has had very ad hoc voluntary disclosure programs. The United States gave people three months to voluntarily disclose their income, after which it was too late to do so. Today, the United States has opened the doors much more and there is much freer voluntary disclosure.

Here in Canada, the measures are now more binding. That's good, but there still won't be voluntary disclosure until the Canada Revenue Agency is more proactive in investigating cases of international tax evasion.

[English]

The Chair: Thank you all.

We will go to Ms. Koutrakis, followed by Mr. Fast, and then Mr. McLeod will have to wrap it up. Then we will go to Gabriel's motion.

Ms. Koutrakis, you have five minutes.

Ms. Annie Koutrakis (Vimy, Lib.): I'm going to take a few seconds to thank you, Mr. Chair, for being an amazing colleague and guide to me.

This is my first mandate, as you know. I was elected in October of 2019. This is the first time I'm sitting on a standing committee at Parliament, and I couldn't be luckier or more honoured than to count you as my new friend and mentor. I will come to visit you in P.E.I. but as elections are going to happen in 2023, I still have another two years to serve with you. Thank you.

The Chair: Thank you.

• (1730)

Ms. Annie Koutrakis: At this point, it's important to put on record that once we've identified that fraud has happened, the investigation is not taken over by the CRA but is referred to the RCMP for further investigation.

I'd like to ask either Mr. Lareau, Mr. St-Jean or Mr. Ball to weigh in on that and say if you would agree with the statement that there's

only so far that the CRA can go with investigations, and it then goes over to the RCMP.

[Translation]

Prof. André Lareau: In my opinion, the Canada Revenue Agency must demand more information. The agency may, pursuant to subsection 239(1) of the Income Tax Act, file criminal complaints against any tax criminal, including tax advisors. Of course, in criminal matters, Justice Canada will take over. Otherwise, if it's deemed to be more expeditious and more appropriate, the RCMP can deal with it. I don't know about that.

One thing is certain: we need more information now, either from the RCMP or the Canada Revenue Agency. I think the agency still has a lot of work to do on that front. It also takes a willingness to act. For the time being, that will be lacking. We need only think of all the transactions that have taken place with taxpayers or of the lack of willingness to prosecute KPMG for the time being. All of this leads me to say that the Canada Revenue Agency is not playing its role adequately at this time.

[English]

Ms. Annie Koutrakis: I'd like to hear the thoughts of Mr. St-Jean and Mr. Ball on the same question.

Mr. Bruce Ball: I'll jump in on this one.

I generally agree with that. I think that the CRA stays involved, though, because they have the expertise on tax matters. I'll be honest with you that I'm not quite sure how other legal authorities are brought into the process, but I think the CRA remains part of it.

One of the key things is that the CRA's rules in terms of gathering information and that sort of thing change significantly if they think criminal charges are involved, but I've never dealt with this, so I really don't know how the process works.

Ms. Annie Koutrakis: Thank you for that. I'll continue with Mr. St-Jean.

What are the most common forms of aggressive tax planning that we are seeing today? What steps should the federal government be taking to close loopholes that support these tax planning strategies?

Mr. Charles-Antoine St-Jean: On that note, I would turn to my colleague, my tax expert.

Mr. Bruce Ball: It's actually difficult to say what the key ones are. Maybe I'll deal more with what should be done, because it will probably be the same steps no matter what the issue is.

We've talked about tax evasion a lot. We've talked about tax avoidance. Strictly speaking, tax avoidance is reducing your tax legally, at least under the international definition. The CRA uses a slightly different one.

Then there's aggressive avoidance. I think the big rule there is the general anti-avoidance rule. That's the rule that will apply if your tax position technically meets the rules but is outside the object and spirit of the tax rules. I think that'll be something that the government will be looking into more.

Using Quebec as an example, Quebec's consequences around the general anti-avoidance rule go further than the federal rules do, so I would imagine that would be something the federal government will be looking at when they do their review.

Ms. Annie Koutrakis: From the private sector perspective, I heard in your testimony, Mr. St-Jean, that we need an overhaul of our tax rules and that a reform is needed, but Canada's taxation system must have evolved over the past 20 years. In your view and from your experience, have there been any major changes in the system?

Mr. Charles-Antoine St-Jean: I may just make a few comments. Again, I'm not the tax expert; my colleague is.

Every year the tax code is getting more complex. You're adding pages every year. Over the last 20 years, I don't know how many pages have been added, but there have been new provisions in the Income Tax Act, so it's not getting simpler year after year. It's just getting more complex.

This problem is not going to go away. My colleague was talking about a tax review. The last time the tax review was done was in 1967, if I recall, and it took 10 years back then, so it's been more than 50 years. In the last 20 years, it just got more complex to deal with.

Those are probably the comments I would make, but maybe my colleague could add another layer.

Mr. Bruce Ball: I think the issue is that there have been more changes, and they do layer them on top. I think that's the issue.

We were talking about interest deductibility last week with a group and there are three or four different sets of rules that apply when you're talking about international interest deductions. Rather than putting different rules on top of each other, does it make sense to go back and look at it from the beginning?

I look at it almost like computer software: If you keep adding different layers of programming on top of the old, eventually it breaks down. I think what we need to do is reboot the tax system and start from scratch and see what makes sense.

The Chair: That would be an interesting reboot, for sure. That's good terminology, Mr. Ball.

We'll turn to Mr. Fast, and then Mr. McLeod will have to wrap it up.

Ed, you're on.

Hon. Ed Fast (Abbotsford, CPC): I'm going to call you "Wayne" because I would be remiss if I didn't join the chorus of accolades that you've received today.

The Chair: Don't you remember that I used to give you a hard time when you were Minister of International Trade?

Hon. Ed Fast: Well, I was just going to mention that.

I do echo the sentiments of my colleagues here and just affirm that you are someone who's able to understand and elevate humanity above the politics of this job. It's something very few people really understand. You've been able to do it successfully, as shown in the fact that here at committee, we actually get along.

You are even-handed and you understand the role that we play as elected officials, but I also wanted to highlight that you and I have been adversaries. You were my critic when I was trade minister. Even then, on those occasions when I appeared at committee and you had to grill me, or in the House of Commons, you were always fair—always fair. You were tough, but I never felt that you were an enemy. I always felt that we were actually on the same side, in the sense that both of us were trying to promote Canada's trade interests and just needed to fine-tune some of the policies a little bit.

That really is a credit not only to your skill as a critic and as a chair of this committee, but also to your character. I just want to affirm you in that. You can go into retirement knowing you have the respect of all of your colleagues in the House of Commons.

• (1735)

The Chair: Thank you.

Hon. Ed Fast: Getting to my question, I'm going to direct it to Mr. Ball and Mr. St-Jean.

Yours is the pre-eminent organization representing professional accountants in Canada, correct?

Mr. Charles-Antoine St-Jean: Yes indeed.

Hon. Ed Fast: All right.

Is KPMG a member of your organization—or still a member?

Mr. Charles-Antoine St-Jean: KPMG is.... Members of CPA Canada are individual members.

Hon. Ed Fast: Right, so KPMG is an individual member of your organization—

Mr. Charles-Antoine St-Jean: It's members of KPMG, not KPMG itself.

Hon. Ed Fast: Got it.

Is every accountant in Canada required to be a member of your organization?

Mr. Charles-Antoine St-Jean: Every CPA in Canada is deemed a member of CPA Canada by virtue of their belonging to a provincial institute in which they're registered as a CPA.

Hon. Ed Fast: You don't exercise any disciplinary oversight over individual accountants, correct?

Mr. Charles-Antoine St-Jean: This is the responsibility of the provincial institute or

[*Translation*]

chartered professional accountants.

[*English*]

That's the way the country works. The professions are managed by the provinces.

Hon. Ed Fast: I ask that question because we've spent a fair bit of time today and in the rest of our meetings on tax evasion talking about what the government's role is and how we can do this better.

Is it a matter of resources? I think there's some evidence that it is a matter of resources. Is it a matter of simplifying the tax system? I would agree with you that this is required.

There is certainly a role for your profession itself to play, whether it's your provincial professional societies or whether it's your national organization. Are there things that your profession can do to help government ensure that the tax laws of our country are complied with, not only by your clients but by your members, the accountants themselves?

Mr. Charles-Antoine St-Jean: Yes. Every CPA in Canada, by virtue of belonging to a provincial institute, is subject to a code of conduct, which is quite strict. It's in terms of behaviours and expectations of CPAs. CPAs, like all Canadians, are expected to abide by the law. Also, they're expected to abide by the code of conduct to make sure that they don't get involved with, say, tax evasion. That's a criminal act. You cannot be a CPA and do that.

Hon. Ed Fast: However, is it safe to assume that the tax avoidance and perhaps tax evasion strategies that are employed by companies often involve the enabling work of accountants?

Mr. Charles-Antoine St-Jean: They could be non-CPA accountants. They could be many, many different kinds of people, so they're not necessarily CPAs. It can be anyone who can work in this field in Canada.

• (1740)

Hon. Ed Fast: Do you know at all whether KPMG has been disciplined in any way for its role in the offshore tax strategies that it's now implicated in?

Mr. Charles-Antoine St-Jean: That would be for provincial... We're not aware of this at CPA Canada because we're not privy to this information. It would be the provincial institute or *l'Ordre* that would be able to provide this information.

Hon. Ed Fast: Okay.

I'll stay with both of you—

The Chair: This will be your last question too, Ed.

Hon. Ed Fast: I want to go back to the question about simplifying the tax system. I think all of us can probably come to the agreement that a simplified tax system would also lead to less tax avoidance and less tax evasion. Could you add to the number of suggestions that have already been made as to how our tax system could

be simplified? A number of suggestions have been made, and I'd love to hear the two of you expand on that point.

Mr. Charles-Antoine St-Jean: Maybe I could turn the floor over to my friend Bruce on this very question.

Mr. Bruce Ball: Yes, thanks.

As I mentioned before, we think that reviewing the entire system makes sense, but through a lens that looks at whether the system is too complicated for people to comply with. That has to be one of the key questions as you look. I wouldn't be looking for one-off fixes. I'd be looking at working on the whole system and trying to simplify it in general.

I agree completely with the idea that a simplified system will increase compliance, but I think it's important to understand why compliance or non-compliance happens. It could be tax evasion, but it could also be that either people are overwhelmed and can't understand it or they do something wrong because it's too complicated. Evasion has to be dealt with, but those other two things will be aided if the tax system is simplified.

The Chair: Thank you.

We will turn last to Mr. McLeod. I'm sorry, Michael, but you're only going to have four minutes, because we have to get to this motion.

The floor is yours.

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

Thank you to the presenters today. It's very interesting to listen to the wealth of experience and the knowledge you have on taxes and tax evasion.

In the economic statement in the fall of 2020, our government committed to invest \$606 million over five years, starting in 2021, to expose the high-net-worth compliance gap, to strengthen technical support for high-risk audits and to enhance the criminal investigations program.

We heard today that the funding commitment by our government is still too low. I listened with real interest as I heard that the previous government, the Harper government, had made cuts to CRA's resources. I'm wondering if you could tell us—and I think Claude and André talked about the cuts—what the impact was of those cuts. If we're putting money into it and there is still not enough, what was the impact when resources were taken away? Are we still trying to play catch-up as a result? Do we not have all the technology we need because of that? Is it that we don't have enough staff, or maybe that the resources we have are inadequate to do the job?

Does somebody want to take a crack at giving me some answers to those questions?

Mr. Charles-Antoine St-Jean: Maybe I could give a comment or two.

The evolution of technology in the last number of years has been extraordinary. The ability to do things is very different from what it was five years ago.

When we were talking about new tools that are needed to combat tax evasion effectively, I think I alluded to AI a bit earlier on. These are some of the tools we need to equip all of our departments with, and we also need to get the talent to be able to deploy it and use it. There is not an overabundance of this talent in Canada, as you have heard us say many times. There is a talent war. The ability to attract talent is a challenge not only for government but also for the private sector.

Getting all the people who are needed who have the talent that is needed is a problem that's not going to go away easily, but government still needs to keep trying to source the talent, the people and the technology to help this situation, because the other side is also investing and trying to find ways to beat the system. Combatting it is a never-ending battle.

Maybe I could turn to my colleague Bruce to see if he would like to complement this answer.

• (1745)

Mr. Bruce Ball: Thank you.

Going to the original question, I don't think we can talk to the impact of previous decisions around funding of the CRA, but based on the discussions we have with them, they are trying new things, especially in dealing with issues around non-compliance, both in terms of penalty and in terms of getting people to come forward. I think there have been improvements over the years.

The other thing is that it's not going to be "one and done". It's a process, so the CRA will have to continue to look at what they're doing and see if it's working or if they have to do new things. I don't think you can say that we've found the answer and now we'll carry on; it's going to be an ongoing process.

The Chair: Go ahead, Mr. Vaillancourt, and then we'll have to go to the next person.

[*Translation*]

Mr. Claude Vaillancourt: I talked about this issue earlier.

I was saying that the Harper government's cuts were made in the context of an austerity policy. They have caused a lot of damage to the country. Now, with the money reinvested in the Canada Revenue Agency, we're at about the same point as before, while the needs are much greater and the situation has become very complex.

Technology has indeed changed, and we have access to much more information than we did before. It's very difficult to process that information, and it's extremely complex, whether it's tax leakage or automatic information exchange.

So that's why we're saying not only do we need to go beyond the current level and compensate for the losses, which we're doing, but we also need to go a lot further and invest a lot more money.

In my opinion, the Biden administration has realized that in the current emergency situation caused by, among other things, all the additional expenses generated by the COVID-19 pandemic, it is time to recover that money. These funds can only be accessed by increasing the number of experts and specialists who can investigate and catch the fraudsters, who are the hardest to catch.

That's why we consider our request to be important.

[*English*]

The Chair: I think we have received a lot of information this afternoon. We'll have to go to the minutes to really delve into it.

On behalf of the committee, thank you to all our witnesses for appearing and for providing the information based on your life experience. Thank you very much for that.

Mr. Ste-Marie, we'll turn to you. I know members have received your motion, so we'll give the floor to you.

[*Translation*]

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

I would like to thank all the witnesses.

Before I propose my motion, I would like to provide some context.

Next Thursday, we will continue the committee's study on the same subject. The purpose of the meeting is to identify the key witnesses in this case. As I understand it, so far, the six witnesses who were named in the CBC article have not accepted the invitation. One of these witnesses, who is not a Canadian citizen, has reportedly declined any offer, and the others who are the subject of the motion that will be discussed have not refused to appear. I understand that some deadlines can be tight and that, ideally, the committee could adopt a motion to invite these witnesses. However, since the committee meeting is on Thursday and after that we'll have only one meeting left with the ministers, I would move a motion to summon these witnesses.

I really want to clarify that these motions aren't about witnesses who have refused to appear before the committee. Given the tight timelines and the fact that we haven't received any responses so far, I would like to ensure that we hear from key witnesses in this important study. That is why I have forwarded a motion to you.

Here's the wording of the motion I'm proposing:

That Michael Morris, Susan Gibbons, William Maycock and Serge Bilodeau be summoned to appear before the Committee as part of the study on the Canada Revenue Agency's efforts to combat tax avoidance and evasion, during the meeting of Thursday, June 17, 2021, and that the Committee order Ian Morris to forward Michael Morris's contact information to the clerk of the Committee so that he can summon him to appear.

Thank you.

• (1750)

[*English*]

The Chair: The motion is up for discussion. Does anyone want to speak to it?

Mr. Julian, go ahead.

[*Translation*]

Mr. Peter Julian: I support the motion for the reasons that Mr. Ste-Marie just outlined. As a committee, it's important that we reiterate the importance of these invitations.

[*English*]

The Chair: Is there anyone else, or are we going to a vote?

Mr. Sean Fraser (Central Nova, Lib.): A vote is fine, Mr. Chair.

The Chair: Mr. Clerk, can you poll the committee members on the motion?

Mr. Sean Fraser: Mr. Chair, this may be unanimous. I didn't hear anybody object, and for what it's worth, I'll be voting in favour of the motion. I expect my colleagues will as well. Unless there's an objection, I would suggest the motion just carry.

The Chair: I don't see any objections.

(Motion agreed to)

The Chair: The motion is in fact carried.

The clerk has already given me a little note on what the summons would look like. We may have a bit of trouble with an address or two, but we'll cross that bridge when we get to it.

Mr. Kelly, go ahead.

Mr. Pat Kelly: Mr. Chair, with the urgency of the days that are so limited here, could you tell us if you have confirmation of the acceptance of our invitations to both ministers for next Tuesday?

The Chair: Mr. Clerk, you will have to answer that. We don't have acceptances yet. I understand it's under discussion, but we'll push the issue, Pat.

With that, thank you, folks, for a very interesting exchange today, and thank you for all the comments. I get a bit embarrassed by them.

Mr. Pat Kelly: Thank you, Mr. Chair.

Mr. Sean Fraser: I think you have to work on your speech, but before we formally adjourn, I think you're first up in the speeches tonight. Is that correct?

The Chair: I am, and I have a little work to do there.

Mr. Peter Julian: Do a filibuster, do a filibuster.

Mr. Sean Fraser: If you have a chance to do some funny business as chair, everyone's in love with you tonight, so this was your opportunity.

The Chair: It was, yes. Thank you all, and goodbye.

The meeting is adjourned.

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