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CANADA

TAX EVASION AND THE USE OF TAX HAVENS

Report of the Standing Committee on Finance

James Rajotte, M.P.
Chair

MAY 2013

41st PARLIAMENT, FIRST SESSION

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THE STANDING COMMITTEE ON FINANCE

has the honour to present its

SEVENTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied tax evasion and the use of tax havens and has agreed to report the following:

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TAX EVASION AND THE USE OF TAX HAVENS

INTRODUCTION

On 24 April 2012, the House of Commons Standing Committee on Finance (the Committee) adopted a motion to resume its study on tax evasion and also to examine international tax planning in order to ascertain emerging best practices in foreign jurisdictions for combatting tax evasion. The original motion, which was adopted by the Committee on 4 October 2010 in the 40th Parliament, required an examination of the use of offshore accounts by Canadians to evade taxation, the efforts made by the Canada Revenue Agency (CRA) to recover unpaid tax and Canada's strategy for combating tax evasion.

Canada has a self-assessment tax regime, which requires taxpayers to determine their taxable income. One of the difficulties with this approach is that taxpayers may not disclose all of their income, especially if it is located outside of Canada. Taxpayers may also use certain provisions in the *Income Tax Act* (ITA) in a manner that was not intended when the provision was enacted. According to some analysts, these types of activities have reduced Canada's tax base. Furthermore, the ease with which assets and funds can be transferred in the global economy has facilitated legitimate, as well as illegitimate, activities in certain jurisdictions.

This report examines tax avoidance and tax evasion in Canada, as well as the methods used domestically and internationally to detect and prosecute — and thereby reduce — aggressive tax planning so that taxpayers pay their fair share of tax. Chapter 1 examines the magnitude of tax avoidance and tax evasion in Canada, and the international response to tax avoidance and evasion. Chapter 2 describes the types of criminal activities and aggressive tax planning strategies that may be used by individuals and corporations, while Chapter 3 highlights the efforts made by the CRA, and other government and non-government entities, in monitoring, detecting and prosecuting aggressive tax planning and tax evasion. Chapter 4 indicates the methods used by tax authorities to obtain and exchange tax information, while Chapter 5 discusses domestic and international measures to reduce aggressive tax planning and tax evasion. Finally, the Committee's recommendations are contained in Chapter 6.

CHAPTER 1 — ASSESSING THE MAGNITUDE OF TAX AVOIDANCE AND EVASION

In giving context for their comments, the Committee's witnesses provided their interpretations of the terms "tax avoidance," "tax evasion" and "tax haven," noted the value of assets in tax havens, spoke about the targeting of tax avoidance and evasion by governments, and identified international responses to tax avoidance and evasion.

A. Tax Avoidance and Tax Evasion

A number of witnesses appearing before the Committee highlighted the differences between tax avoidance and tax evasion. For example, a CRA official said that "tax avoidance" involves minimizing tax by contravening the object and spirit — but not the letter — of the law, and indicated that the CRA uses the term "aggressive tax planning" to refer to both domestic and international strategies to avoid tax through contravening the spirit — but not the letter — of the law. According to the official, "tax evasion" involves deliberate underreporting of tax payable by concealing income or assets and by making false statements. An official also highlighted differences between these terms in relation to prosecution, with successful prosecution of tax avoidance and tax evasion requiring proof on the balance of probabilities and beyond a reasonable doubt respectively. Penalties also differ, with the former requiring the payment of taxes and interest, and the latter resulting in incarceration and fines of up to 200% of the amount of tax evaded.

Robert Kepes, a lawyer with Morris Kepes Winters LLP Tax Lawyers who appeared as an individual, noted that the "object and spirit" of the law is not defined in legislation, which makes it difficult for taxpayers to identify legitimate tax avoidance. He indicated that tax evasion is fraud and that the Crown must prove, beyond a reasonable doubt, both that taxes were owed and that the accused knew that taxes were owed and deliberately avoided their payment. According to him, evasion of tax amounts owed that exceed $250,000 are prosecuted either by indictment under the ITA or as fraud under the *Criminal Code*; it is easier for the Crown to prove fraud under the Code.

Arthur Cockfield, a Queen's University professor who appeared as an individual, told the Committee that tax avoidance involves taxpayers attempting to engage in tax planning while complying with relevant Canadian and foreign tax laws, while tax evasion involves taxpayers deliberately not disclosing income.

In speaking about the economic effects of tax avoidance, Paul Collier, a University of Oxford professor who appeared as an individual, mentioned that — at an international level — tax avoidance may result in the misallocation of economic activity due to the practice of conducting business activity in one jurisdiction and reporting income in another, so that the reporting of profit becomes a voluntary activity. Similarly, the Tax Justice Network told the Committee that tax havens distort markets.

B. Tax Havens

In its appearance before the Committee, the Organisation for Economic Co-operation and Development (OECD) indicated that — in the 1990s — it defined the term "tax haven" as a jurisdiction without: taxes, transparency in relation to tax information, the exchange of tax-related information and "real business activity." It highlighted that a lack of transparency in certain jurisdictions is currently an issue, as taxpayers can conceal funds in these jurisdictions in order to evade taxation.

The Tax Justice Network identified tax havens as jurisdictions that intentionally create legislation for the primary benefit and use of non-resident individuals and entities. According to it, this legislation undermines the legislation of other jurisdictions. It also believed that tax havens may have secrecy rules that conceal the identity of the beneficial owners of an account or corporation; these jurisdictions are sometimes known as "secrecy jurisdictions."

Some witnesses mentioned the use of offshore financial centres, which — in their opinion — are used for legitimate activities, while other witnesses referred to such jurisdictions as tax havens. For example, Walid Hejazi, a University of Toronto professor who appeared on his own behalf, told the Committee that offshore financial centres are used by Canadian businesses to gain access to the global economy by reducing their costs of financing. Gilles Larin, a University of Sherbrooke professor who appeared as an individual, stated that offshore financial centres lack transparency regarding their legal and administrative systems; in his view, a lack of transparency is one hallmark of a tax haven.

A number of witnesses commented on foreign investment in certain jurisdictions and the resulting economic activity. Paul Collier indicated that foreign investment in Barbados and the Cayman Islands does not result in jobs in those countries, but instead is used to avoid the payment of taxes in Canada. Luis Carlos Delgado Murillo, Ambassador of the Republic of Costa Rica to Canada, told the Committee that foreign investment in Costa Rica has resulted in jobs in the services, advanced manufacturing and medical devices sectors.

C. Value of Assets in Tax Havens

According to some of the Committee's witnesses, two major — and related — problems with attempting to measure the extent to which taxpayers evade the payment of taxes owed are the lack of information available to tax authorities and the reluctance of taxpayers to disclose information voluntarily. Witnesses had wide-ranging estimates of the amount of assets held by Canadians and non-Canadians in offshore financial centres and in jurisdictions formerly considered by the OECD to be tax havens, although the term "tax haven" continues to be used.

In a brief submitted to the Committee, the Mouvement d'éducation et de défense des actionnaires stated that the world's wealthiest individuals hold $12 trillion in assets in offshore bank accounts located in tax havens or offshore financial centres. Arthur Cockfield cited a Boston Consulting Group report that estimated the total amount of

assets in tax havens or offshore financial centres to be between $5 trillion and $38 trillion. Canadians for Tax Fairness cited a Tax Justice Network study that estimated that between $21 trillion and $32 trillion has been transferred from low- and middle-income countries to more than 80 offshore tax havens. The Tax Justice Network told the Committee that, according to its research, it is primarily high-net-worth individuals — individuals with more than $1 million in liquid assets — who are involved in tax evasion. David Sohmer, a lawyer with Spiegel Sohmer who appeared on his own behalf, estimated that Canadians hold assets valued at $100 billion in offshore bank accounts.

Following its appearance, the CRA provided supplementary information indicating that Canadian-resident individuals, corporations and trusts who own "specified foreign property" with a total value exceeding $100,000 at any time in the year are required to disclose certain information about the property to the CRA on Form T1135. Table 1 presents, for the 1999–2009 fiscal years, the number of T1135 forms filed, and total and average annual taxable income resulting from foreign assets reported on the forms. Table 2 shows, for the 1999–2009 fiscal years, the number of Canadian-resident individuals reporting foreign assets valued at more than $1 million in that year on T1135 forms and the locations of those assets.

Table 1 — Number of T1135 Forms Filed by Canadian-Resident Individuals, Corporations and Trusts, and Total and Average Annual Taxable Income Resulting from Foreign Assets Reported on T1135 Forms,1999–2009 Fiscal Years

Fiscal Period Ending	Number of T1135 Forms Filed Annually	Total Annual Taxable Income Resulting from Foreign Assets Reported on T1135 Forms in that Year	Average Annual Taxable Income Resulting from Foreign Assets Reported on T1135 Forms in that Year
1999	53,424	$4,109,439,624	$76,921
2000	61,534	$4,692,503,828	$76,259
2001	68,822	$2,505,543,860	$36,406
2002	70,884	$3,677,239,712	$51,877
2003	72,607	$3,335,167,958	$45,935
2004	76,362	$3,968,423,574	$51,969
2005	73,146	$8,619,889,777	$117,845
2006	88,348	$6,415,302,539	$72,614
2007	98,649	$8,065,798,650	$81,763
2008	110,952	$8,125,500,289	$73,234
2009	119,712	$3,706,081,259	$30,958

Source: Canada Revenue Agency, Data provided to the House of Commons Standing Committee on Finance, 22 March 2011.

Table 2 — Number of Canadian-Resident Individuals Reporting Foreign Assets Valued at More than $1 Million on T1135 Forms, Total and by Foreign Location of Those Assets, 1999–2009 Fiscal Years

Fiscal Period Ending	Number of Canadian-Resident Individuals Reporting Assets Valued at More than $1 Million on T1135 Forms						
	Total	United States	United Kingdom	Europe	Southeast Asia	Caribbean	Other
1999	1,073	656	156	241	102	90	169
2000	1,397	946	196	293	114	109	225
2001	1,611	1,047	253	369	160	131	278
2002	1,695	1,091	253	395	162	123	319
2003	1,800	1,148	254	449	211	123	299
2004	1,766	1,099	248	445	220	125	290
2005	1,743	1,068	264	409	241	104	301
2006	2,186	1,279	329	508	362	130	429
2007	2,447	1,428	378	567	415	141	455
2008	2,598	1,444	384	583	490	139	562
2009	2,877	1,389	365	610	631	160	756

Note: A Canadian-resident individual may own assets in multiple jurisdictions and may move assets from one jurisdiction to another during the fiscal year, resulting in assets being reported in more than one jurisdiction.

Source: Canada Revenue Agency, Data provided to the House of Commons Standing Committee on Finance, 22 March 2011.

D. The Targeting of Tax Avoidance and Evasion by Governments

1. Tax Revenue and the Tax Gap

According to some of the Committee's witnesses, one of the reasons for the recent targeting of offshore bank accounts by various governments is the need to increase tax revenue due to the global financial and economic crisis. These witnesses did not, however, provide a consistent estimate of the amount of tax revenue that is not collected — the "tax gap" — as a consequence of tax avoidance and evasion.

An official from the CRA told the Committee that the CRA does not estimate the tax gap. However, since 2006, the CRA has audited 8,000 cases and identified $4.6 billion in unpaid tax. A Department of Finance official indicated that other countries do not estimate the tax gap related to the international activities of taxpayers and that, in any event, it would be too difficult to obtain an accurate estimate for Canada. That said, the Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens felt that the federal government should prioritize fighting tax fraud and the use of tax havens, and suggested that the government should fund studies to determine the level of tax avoidance and evasion in Canada.

In its appearance, the OECD stated that the tax gap is difficult to calculate, and said that determining the tax gap is not necessary for measuring the effectiveness of tax authorities. It also indicated that tax avoidance strategies make it difficult to calculate the tax gap. Nevertheless, the Tax Justice Network detailed various methods that can be used to calculate a country's tax gap, and said that it estimated the level of tax evasion in the United Kingdom by examining the amount of value-added tax that is not paid; the U.K. government has previously used the level of incorrect income tax returns to estimate the tax gap. Using the estimated global tax gap as reported by the Tax Justice Network, Canadians for Tax Fairness predicted that Canada may be losing between $5.3 billion and $7.8 billion annually in tax revenue as a consequence of tax evasion.

Regarding the tax gaps in relation to domestic activities and international activities, Arthur Cockfield stated that the majority of a country's tax gap is the result of domestic tax evasion, such as non-compliance with a goods and services tax. In the view of Walid Hejazi, more tax abuse occurs domestically than in offshore financial centres; he suggested that the amount of tax revenue not collected because of tax evasion has been exaggerated by some commentators.

Don Johnston — a lawyer with Heenan Blaikie, former Secretary-General of the OECD and former President of the Treasury Board of Canada who appeared on his own behalf — shared his view that honest taxpayers should not be subsidizing individuals who do not pay their fair share of taxes. Similarly, the OECD said that the tax burden should be fairly shared, and that companies that pay all of their tax owed should not be at a disadvantage when compared to companies that do not do so, as these latter companies reduce their tax owed through the use of tax havens.

2. Secrecy Jurisdictions

According to a number of the Committee's witnesses, the disclosure of once-secret banking information in relation to banks located in Liechtenstein and Switzerland has contributed to a more accurate understanding of the magnitude of income that may not be taxed by any jurisdiction or that may not be appropriately taxed. Don Johnston said that, in certain jurisdictions, it is difficult to determine whether the beneficiary of a bank account is a Canadian resident, and indicated that informants have played a major role in increasing tax compliance and in the sharing of information regarding undeclared income. Scott Michel, a lawyer who appeared on behalf of Caplin & Drysdale, estimated that the United States has prosecuted 25 UBS account holders since the identities of account holders were released to the U.S. Internal Revenue Service (IRS) in 2007. A CRA official informed the Committee that the CRA has conducted 47 audits based on leaked information regarding accounts in Liechtenstein banks, and has identified $22.4 million in unpaid tax.

E. International Responses to Tax Avoidance and Evasion

1. Tax Avoidance

In its appearance before the Committee, the OECD highlighted the issue of "double non-taxation," which involves the legitimate use — by multinational corporations — of certain jurisdictions, tax treaties and domestic legislation to eliminate tax owed or to reduce income taxation significantly. In the OECD's view, international tax conventions, guidelines and other standards should not result in a situation where an entity can avoid paying tax in any jurisdiction or can report profits only in a jurisdiction with no or low taxes through the use of affiliated companies in such jurisdictions. As stated by the OECD in its report entitled *Base Erosion and Profit Shifting*, international efforts are being designed with a view to ensuring ensure that at least one jurisdiction is able to tax the profits earned by a multinational corporation; the ability to do so may occur through the development of rules that address the reporting of income, such as "transfer pricing" or the pricing of goods and services between affiliated corporations.

2. Tax Evasion

The OECD spoke to the Committee about recent international efforts to reduce tax evasion and the use of offshore accounts, noting that these efforts have focused on increased transparency through an international standard for the exchange of information among tax authorities, as well as between financial institutions and tax authorities. Through the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, the Group of Twenty nations has played a role in implementing the international standard through peer review of the legal and regulatory framework of member countries. The standard is based on Article 26 of the OECD's *Model Tax Convention* and the 2002 *Model Agreement on Exchange of Information on Tax Matters*, and requires Global Forum members to:

- exchange information, on request, where it is "foreseeably relevant" to the administration and enforcement of the domestic laws of the other jurisdiction;
- ensure that there are no restrictions on the exchange of information resulting from bank secrecy laws or domestic tax policy;
- ensure the availability of reliable information and the powers to obtain that information;
- respect taxpayers' rights; and
- maintain strict confidentiality in relation to the information that is exchanged.

The OECD said that Global Forum members have signed bilateral tax information exchange agreements (TIEAs) with tax havens and offshore financial centres; the TIEAs

contain the international standard on transparency and the exchange of information. The Committee was also informed that, since 2009, more than 550 TIEAs have been signed by Global Forum members. According to a Department of Finance official, Canada has 16 TIEAs in force and is currently negotiating 12 additional agreements.

The OECD also told the Committee about the steps to be taken after effective tax information exchange mechanisms are established; these steps include joint audits by tax authorities in other jurisdictions, the sharing of information regarding types of tax planning schemes, and multilateral conventions regarding the sharing of tax administration and collection. On the issue of multilateral conventions, Arthur Cockfield advocated ratification of the *Convention on Mutual Administrative Assistance in Tax Matters*, which was signed by Canada in 2004.

CHAPTER 2 — SUSPICIOUS FINANCIAL TRANSACTIONS AND AGGRESSIVE TAX PLANNING

The Committee's witnesses provided a variety of comments in relation to suspicious financial transactions and aggressive tax planning. In particular, they spoke about criminal activity, offshore bank accounts and offshore financial centres, and aggressive tax planning strategies used by corporations.

A. Criminal Activity

Some of the Committee's witnesses believed that aggressive tax planning by individuals and corporations that is virtually indistinguishable from criminal activity has played a role in focusing attention on offshore income and tax compliance. The OECD mentioned the aggressive tax planning techniques of the banking sector, with foreign banks covertly recruiting clients in the United States, while an official from the Department of Finance highlighted the government's draft reporting requirements for advisors of aggressive tax planning schemes; these requirements were supported by Arthur Cockfield.

A representative of the Royal Canadian Mounted Police (RCMP) stated that criminals and criminal organizations can use the same financial system as others, thereby making it difficult for investigators to distinguish between legitimate and illegitimate activities. For example, criminal organizations operate seemingly legitimate businesses so that the proceeds from their criminal activities can be co-mingled with "legitimate income."

Accountability Research Corporation highlighted the ease with which income earned in Canada can be directly transferred by a Canadian-resident individual, corporation or trust to foreign locations or invested by an entity controlled by a Canadian-resident individual, corporation or trust in foreign financial instruments that are not reported in Canada; this ease can make it difficult for Canadian law enforcement and tax authorities to track the origin and destination of income. In addition, due to confidentiality requirements between lawyers and their clients regarding the use of trust accounts, lawyers' trust accounts are often used to launder income earned from illegitimate activities.

Global Financial Integrity informed the Committee that secrecy jurisdictions, which prohibit the disclosure of the beneficial owner of an account or corporation, undermine the efforts by developed countries to provide foreign aid, as such jurisdictions facilitate the transfer of foreign aid funds from the developing country to offshore accounts. Walid Hejazi suggested that it is difficult to determine whether a foreign corporation is owned by a Canadian, as individuals in Canada can create a corporation or a private bank in an offshore financial centre and manage assets through that corporation or bank.

B. Offshore Bank Accounts and Offshore Financial Centres

Although having an offshore bank account is not illegal, a number of the Committee's witnesses identified legitimate and illegitimate reasons for establishing such an account. Stephen Jarislowsky, an investment advisor with Jarislowsky Fraser Limited who appeared on his own behalf, said that low investment returns and a high rate of taxation on investment income earned by Canadians have enticed individuals to avoid or evade taxation of that income through the use of an offshore bank account. Arthur Cockfield countered this statement by remarking that Canadian tax compliance rates are among the highest in the world; that said, he agreed that tax evasion in relation to foreign income is rising, and argued that the globalization of financial services has contributed to international tax evasion, as it is relatively easy for Canadians to conceal certain domestic transactions from Canadian tax authorities through the use of offshore bank accounts and related foreign-issued credit cards. Accountability Research Corporation provided reasons for establishing an offshore bank account that are unrelated to tax evasion, including: funding activities in another jurisdiction, such as to support foreign dictators; concealing profits from illegal activities, such as securities fraud and Ponzi schemes; and hiding assets from other individuals or entities, such as creditors.

Some witnesses mentioned globalization as one explanation for the increased use of offshore jurisdictions by Canadians and for Canadian taxpayers generating income in tax havens. Walid Hejazi highlighted that Canadians have more invested abroad than non-Canadians have invested in Canada, and suggested that 20% of foreign direct investment by Canadians occurs through an offshore financial centre. Stephen Jarislowsky pointed out that a high relative value for the Canadian dollar has increased foreign investment by Canadian businesses in offshore financial centres.

Regarding the communication of financial information between and among bank branches, HSBC Bank Canada indicated that the non-Canadian divisions of HSBC operate independently from the Canadian division, and that HSBC does not share client information between and among divisions. Moreover, each HSBC division operates in accordance with the laws of its specific jurisdiction, and HSBC Bank Canada does not open bank accounts in foreign jurisdictions for Canadian customers; instead, customers are referred to the foreign division of HSBC in a particular jurisdiction.

C. Aggressive Tax Planning Strategies Used by Corporations

1. General Strategies

Some of the Committee's witnesses highlighted the use of aggressive tax planning strategies by multinational corporations. For example, Walid Hejazi indicated that multinational corporations use bank accounts in offshore financial centres to transfer money to other parts of the world, and that they use tax avoidance techniques to remain competitive with corporations that use similar techniques. The OECD noted that multinational corporations use tax havens and offshore financial centres due to relatively lower regulatory standards. It provided the example of an insurance company created by a

U.S. parent corporation in an offshore financial centre to provide insurance services solely to the parent corporation, as well as to its U.S. and foreign subsidiaries.

Accountability Research Corporation indicated that the new International Financial Reporting Standards legitimize the under-reporting of income by publicly traded corporations for tax purposes. It highlighted the adoption of the these standards by the CRA without debate in Canada, as well as the drafting and approval of these standards by organizations interested in maximizing investment returns for their clients, which may lead to aggressive tax planning and decreased tax revenue in the future.

Brigitte Alepin, a chartered accountant with Agora Services de Fiscalité Inc. who appeared on her own behalf, argued for a balance between, on one hand, restricting certain transactions due to tax evasion committed in tax havens by individuals, corporations and trusts and, on the other hand, legitimate tax planning transactions in the same jurisdictions by multinational corporations.

A Department of Finance official noted that Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation, contains measures that would limit the use of foreign investment entities, non-resident trusts and foreign tax credit generators to avoid and reduce the taxation of income in Canada.

2. Profit Shifting and Transfer Pricing

Regarding the use of transfer pricing, the CRA informed the Committee that transfer pricing occurs in all sectors, and is used by both large and small corporations. Global Financial Integrity noted that transfer pricing is used by multinational corporations to under-report income in developing countries, thereby lowering the tax base of those countries. As an example of this approach, the Halifax Initiative mentioned international mining companies operating in Zambia that have allegedly unprofitable affiliates in that country. To reduce the shifting of profits, Global Financial Integrity and the Halifax Initiative advocated country-by-country reporting of sales, profits, tax paid, the number of employees and costs for all multinational corporations. Similarly, Brigitte Alepin and Arthur Cockfield proposed that country-specific information be submitted to the CRA in order to reduce tax avoidance by multinational corporations.

The OECD noted that multinational corporations transfer investments and intellectual property to various jurisdictions for tax purposes. For example, a company may have a physical presence and business activities in Canada, investments in an affiliate in Europe and intellectual property owned by another affiliate located in Barbados. Payments between affiliates for goods and services, such as intellectual property, can be used to shift profits to jurisdictions with low or no taxes.

Paul Collier told the Committee that certain multinational companies use transfer pricing to eliminate their tax payable in developed countries, such as Britain, which disadvantages domestic companies. He requested coordination among Group of Eight countries in order to prevent such practices.

3. Double Taxation Treaties

A number of the Committee's witnesses indicated that bilateral tax treaties designed to reduce the double taxation of income — or double taxation treaties — actually promote tax avoidance and evasion by Canadian corporations. Alain Deneault, a researcher at the University of Quebec at Montreal who appeared on his own behalf, provided the example of the Canada–Barbados double taxation treaty, which he felt promotes the reporting of higher expenses by multinational corporations in Canada through inflated prices for intra-firm transactions, thereby lowering Canadian taxable income. The Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens had similar views on the Canada–Barbados double taxation treaty, and said that the treaty enables profit shifting and reduces the amount of Canadian tax revenue.

The Mouvement d'éducation et de défense des actionnaires proposed repeal of the rules allowing corporations in countries that have signed tax agreements with Canada to return income to Canada on a tax-free basis. An official from the Department of Finance informed the Committee that Canada's policy is to exempt business income earned by foreign affiliates of Canadian multinationals from Canadian taxation, regardless of the tax rate in the foreign jurisdiction; this approach ensures Canada's competitiveness with other countries that have similar policies. Gilles Larin suggested that Canada should undertake a review of all double taxation treaties with countries that have low tax rates, revise treaties with obsolete information exchange provisions, and repudiate a treaty if the other jurisdiction does not agree to a provision providing for the exchange of information.

Brigitte Alepin felt that signing a double taxation treaty with a tax haven encourages tax evasion by legalizing tax avoidance activities. She also mentioned that domestic tax policy, in conjunction with double taxation treaties, can increase the level of tax evasion or the use of tax avoidance transactions. She gave the example of section 116 of the ITA, which was recently amended to allow Canadians to sell eligible property in a country with which Canada has a bilateral tax treaty to a resident of the relevant country so that the Canadian is exempted from paying the 25% withholding tax. The removal of this withholding requirement may result in tax not being paid if taxpayers feel that they do not need to determine if either or both the property and the purchaser are eligible for the exemption.

CHAPTER 3 — MONITORING, DETECTING AND PROSECUTING AGGRESSIVE TAX PLANNING AND TAX EVASION IN CANADA

In their appearance before the Committee, witnesses shared their views about federal and private-sector entities that play a role in monitoring, detecting and prosecuting aggressive tax planning and tax evasion in Canada, including the CRA, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), the RCMP and Canada's financial institutions.

A. Canada Revenue Agency

1. Monitoring, Detection, Prosecution and Tax Revenue

According to some of the Committee's witnesses, the main method by which revenue associated with tax evasion is collected is through the audit procedures of the CRA. An official from the CRA said that the audit process is long, and requires an initial risk analysis to determine both the amount of tax that may be recovered and the level of difficulty in obtaining it. The Committee was told that, in the 2009–2010 fiscal year, the CRA conducted 1,251 audits, an increase from 278 in the 2005–2006 fiscal year; since 2006, nearly 8,000 audits have been completed involving aggressive tax planning, and more than $4.5 billion in unpaid tax has been identified. An international comparison was provided by the OECD, which said that Ireland obtained €1 billion in tax revenue from residents using accounts in the Channel Islands.

In speaking about criminal prosecutions, a CRA official indicated that the CRA launches criminal proceedings only after discussions with the Department of Justice and the Public Prosecution Service of Canada, as tax evasion must be proven beyond a reasonable doubt in order to be successful in court. The official also noted that investigations of criminal activities by taxpayers are undertaken by the CRA's Enforcement and Disclosures Directorate, perhaps with the aid of tax authorities in other jurisdictions. In an effort to deter further abuse, the CRA publishes information about successful prosecution of tax evasion and aggressive tax planning schemes. Robert Kepes suggested that the Office of the Auditor General of Canada should, on an annual basis, measure the success of the CRA in prosecuting tax evaders.

Regarding international activities by individual taxpayers, the CRA told the Committee that — for the 2009–2010 fiscal year — $1 billion in tax revenue was recovered by the CRA, of which $4 million was obtained from the taxation of income associated with offshore bank accounts held by Canadian individuals. Arthur Cockfield suggested that a large proportion of this $1 billion was obtained from individuals and corporations engaged in aggressive international tax avoidance, rather than from tax evasion.

Finally, a CRA official identified two global programs used by Canada to discuss tax evasion schemes with other tax authorities: the Seven Country Working Group on Tax

Havens and the Joint International Tax Shelter Information Centre. Another CRA official mentioned that Canada is a member of numerous regional tax administrations that develop and share best practices.

2. Tax Administration and Auditors

Witnesses appearing before the Committee differed in their opinions about whether the CRA has sufficient resources to prosecute tax evaders and aggressive tax planning properly. The Mouvement d'éducation et de défense des actionnaires indicated that the CRA's resources are insufficient, and argued that the CRA does not publish enough information to combat tax evasion or to inform policy-makers properly. Canadians for Tax Fairness noted that the CRA does not have enough staff to examine the tax information received from other countries. On the other hand, Stephen Jarislowsky stated that the CRA is sufficiently staffed; however, in his view, its employees lack training in the prosecution of tax evaders. Arthur Cockfield suggested that more comprehensive audits of taxpayers should occur and that greater resources are needed for the CRA, as noted by a 2007 report by the Office of the Auditor General of Canada. In relation to the benefits of increased resources for tax authorities in other countries, the OECD indicated that the United Kingdom spent an additional £4 million on tax collection efforts in relation to undeclared offshore accounts in 2009, and expected to receive £7 billion in additional tax revenue.

In response to the need to increase federal funding allocated to the CRA, an official from the Department of Finance noted that the CRA received additional funding for the creation of a tax planning centre of expertise. A CRA official indicated that economists are used to review the audits of multinational corporations, which may use transfer pricing as a tax avoidance tool.

3. Tax Information

A number of the Committee's witnesses highlighted that the sharing of information between tax authorities in various countries is essential in detecting tax evasion. An official from the CRA noted that the CRA obtains information through double taxation treaties, TIEAs, international networks, audits and court orders, which can be obtained pursuant to section 231.2 of the ITA; this section contains "unnamed persons requirements." The 2013 federal budget announced a change to the "unnamed persons requirements" that would streamline the CRA process, as well as changes to Form T1135 that would increase the level of detail that is required on the form.

4. Voluntary Disclosure Program

A number of the Committee's witnesses highlighted both the problems with — and the effectiveness of — Canada's Voluntary Disclosure Program (VDP), which is administered by the CRA. According to witnesses, the VDP allows taxpayers to disclose previously undeclared income; the CRA can allow these disclosures to occur without penalty or prosecution. A CRA official indicated that the CRA received 3,298 voluntary disclosures and recovered $138 million in tax revenue in the 2009–2010 fiscal year, while

a colleague said that more than 15,000 voluntary disclosures in the 2011–2012 fiscal year resulted in $310 million in tax revenue. Another CRA official highlighted that the VDP is not a negotiated settlement regarding tax owing, as all previous taxes and penalties must be paid; a separate tax fairness program allows taxpayers to negotiate a settlement with the CRA.

Based on the experiences of the clients represented by Spiegel Sohmer, David Sohmer indicated that the average age of VDP applicants has increased in recent years; whereas applicants in 2003 had been members of the baby boom generation, their age is now consistent with the parents of those individuals. He also suggested that the recent increase in the number of VDP applications reflects two events: changes in Canadian securities law in 2009 that resulted in foreign investment advisors ceasing to serve those clients who owned less than $5 million in securities; and disclosure of the names of individuals holding accounts in a Liechtenstein bank. He argued that the VDP does not reduce the number of long-term tax evaders. Don Johnston shared his view that the VDP recovers more tax revenue than do audits resulting from TIEAs.

Scott Michel outlined the voluntary disclosure program that existed in the United States in 2009; according to him, that program was similar to Canada's VDP but allowed U.S. taxpayers to negotiate lower settlements, which resulted in 15,000 settlements by taxpayers. He made suggestions regarding the requirements for an effective voluntary disclosure program, including amnesty from criminal prosecution, penalties proportional to the offence, no penalties for non-resident individuals who pay foreign income tax, timely resolution of cases, random checks of amended returns in order to ensure compliance, and aggressive enforcement of tax law. Arthur Cockfield supported a temporary reduction in interest penalties for VDP participants in Canada.

David Sohmer mentioned that the Ministère du revenu du Québec does not administer the VDP in the same manner as the CRA, and noted that the two entities use different formulae to estimate the amount of tax evaded. The result is that more income tax is paid by VDP participants in Quebec than elsewhere in Canada.

B. Financial Information and the Financial Transactions and Reports Analysis Centre of Canada

An official from FINTRAC informed the Committee that information on approximately 65,000 transactions per day are received by FINTRAC from reporting entities, mostly from financial institutions and casinos. Reporting entities submit several types of reports: suspicious transaction reports, which must be submitted if criminal behaviour is suspected; large cash transaction reports, which are submitted when a transaction has a value of $10,000 or more; reports of international electronic funds transfers, which are submitted when $10,000 or more is transferred into or out of Canada; and casino disbursement reports, which are submitted when a casino makes a payment of $10,000 or more to a patron. The 2013 federal budget announced a new requirement for financial institutions to report international electronic funds transfers of $10,000 or more to the CRA.

The Committee was told that FINTRAC analyzes the information received by it in an effort to discern patterns and thereby detect suspicious transactions. According to FINTRAC's analysis, there are approximately 64,000 suspicious transactions per year. In some instances, there are sufficient grounds to build case disclosures related to a suspected money laundering or terrorist activity financing offence; these case disclosures are then sent to the appropriate police force, the CRA, the Canada Border Services Agency and/or the Communications Security Establishment.

A FINTRAC official indicated that, for 2009 and 2010, FINTRAC sent 287 case disclosures regarding criminal investigation into tax matters to the CRA where, through its Special Enforcement Program, the CRA conducts audits and civil enforcement actions may be taken against persons suspected of deriving taxable income from criminal activities. The Committee was also told that, over the 2007–2012 period, FINTRAC referred 2,470 cases to the CRA. Until 2011, FINTRAC could provide case disclosures to the CRA when a dual threshold was met: a reasonable suspicion existed that the information being disclosed was relevant to investigating or prosecuting a money laundering offence, and a determination was made by FINTRAC that the information was relevant to an offence of evading or attempting to evade the payment of taxes. Furthermore, the law did not permit FINTRAC to use tax evasion as the prerequisite criminal activity with which to build a case disclosure. Thus, disclosures made to the CRA were usually related to proceeds obtained from drug trafficking or through fraud, and they were made after the determination of evasion of income taxes.

The first act to implement the provisions of the 2010 federal budget amended the list of predicate offences, known as "designated offences," in the *Criminal Code* to include indictable offences listed in the ITA, such as tax evasion. Furthermore, on 14 February 2011, provisions in the ITA came into force that changed the threshold for case disclosures to the CRA; in particular, a change was made from a requirement that FINTRAC determine "that the information is relevant" to tax evasion to a lower requirement that FINTRAC have "reasonable grounds to suspect" that the information being disclosed is relevant to tax evasion. FINTRAC is now able to build a case and disclose the identity of the potential infringer to the CRA when there are reasonable grounds to suspect that the analyzed information is related to tax evasion and is relevant to investigating or prosecuting a money laundering offence.

The Committee was also told that, in the 2010 federal budget, FINTRAC received additional funding to help detect tax evasion. All FINTRAC analysts received in-depth training on the impact of the legislative changes and, from CRA specialists, on tax evasion. According to a FINTRAC official, FINTRAC expected the number of case disclosures referred to the CRA to increase as a consequence of the legislative changes, and believed that the training from the CRA will allow FINTRAC analysts to identify money laundering cases related to tax evasion.

As well, a FINTRAC official noted that FINTRAC has developed indicators of money laundering that are used to identify this type of behaviour. Usual indicators of money laundering include no payments being made to suppliers and ownership of a cash-intensive operation. FINTRAC has also developed, with the CRA's assistance, indicators

of tax evasion, and the official said that FINTRAC believed that targeting tax evasion will reduce criminals' ability to profit from their illegal activities.

According to Denis Meunier, FINTRAC — like the CRA — shares information with foreign jurisdictions. He informed the Committee that FINTRAC receives more than 200 queries annually from 73 foreign jurisdictions. While FINTRAC is not permitted to make case disclosures to Revenue Quebec, it often refers case disclosures to the Sûreté du Québec.

C. Royal Canadian Mounted Police

In its appearance before the Committee, the OECD argued that a coordinated effort between tax authorities and law enforcement is necessary, as tax evasion is linked to money laundering, bribery, corruption and terrorist financing; this view was supported by a FINTRAC official and a representative of the RCMP. The RCMP representative stated that the RCMP, through its Proceeds of Crime Program, regularly refers information to the CRA regarding tax-related matters. For example, between March 1999 and March 2009, the Proceeds of Crime Program opened 542 files related to the ITA and referred information to the CRA that resulted in federal tax assessments totalling approximately $145 million.

According to the representative of the RCMP, however, the RCMP is not a primary recipient of information related to tax evasion and, within the RCMP's Financial Crime Program, there were no investigative resources dedicated solely to tax evasion at the time of the representative's appearance. The Committee was informed that the RCMP generally does not investigate tax evasion related to legitimate funds earning income offshore; instead, most of the information that it provides to the CRA is related to other criminal investigations. The representative also indicated that the RCMP shares information with the CRA only when it is permitted to do so by law and when the sharing will not jeopardize an ongoing criminal investigation. Information is provided to the RCMP by the CRA only when a judicial order under subsection 462.48(1.1) of the *Criminal Code* has been made by the RCMP or after charges have been laid in relation to a criminal investigation. Another RCMP representative suggested that a change should be made to the *Criminal Code* so that the RCMP could request tax information from the CRA through an affidavit for all indictable offences under the Code.

A RCMP representative told the Committee that the RCMP is involved in several international fora relating to tax evasion. For example, Canada has mutual legal assistance treaties with several tax havens and offshore financial centres, such as the Cayman Islands. Furthermore, the sharing of technology and methodology has increased in recent years, and Canada has been involved in several working groups relating to this sharing, especially with the United States, the United Kingdom, Australia and New Zealand. As with FINTRAC, the RCMP has no direct relationship with Revenue Quebec but does have a close working relationship with the Sûreté du Québec.

D. Canadian Financial Institutions

The Committee's witnesses expressed various views regarding the roles that Canadian financial institutions should play in monitoring and detecting tax evasion, as well as in conducting business in tax havens and offshore financial centres. In relation to monitoring and detecting tax evasion, Brigitte Alepin said that Canadian financial institutions should have stricter policies in place when clients wish to open an offshore bank account, rather than simply referring them to a foreign branch of the institution. Like Gilles Larin, she suggested that there should be automatic sharing of information with Canadian tax authorities when a Canadian resident opens a bank account at a foreign branch of a Canadian financial institution. On the other hand, the Canadian Bankers Association argued that Canadian banks have policies and procedures in place to ensure that the products they offer are not used for the purpose of evading taxes, and highlighted that the banks follow a "know-your-client" protocol. It also pointed out that if there is a suspicion that tax evasion or money laundering is occurring, banks are required to submit a report to FINTRAC.

A number of Canadian banks indicated that they have internal policies to verify the identities of customers, to detect and investigate suspicious activities, and to disclose suspicious activities to FINTRAC. For example, RBC Royal Bank told the Committee that it investigates the identities of clients to determine if they are politically exposed foreign persons, and the Canadian Imperial Bank of Commerce mentioned that it monitors clients who make suspicious investments. A number of banks indicated that they have internal investigative units that examine suspicious activities. For example, TD Bank Financial Group informed the Committee that its employees can contact the bank's financial intelligence unit, and Scotiabank indicated that it has financial investigation units in each jurisdiction where it operates. The Canadian Imperial Bank of Commerce and RBC Royal Bank also said that corporate-wide policies are adjusted for application in each jurisdiction where there are operations; as well, privacy laws in certain jurisdictions may prohibit the transfer of information between branches. Regarding submissions to FINTRAC, HSBC Bank Canada noted that — for 2012 — it submitted 725 suspicious transaction reports, more than 96,000 large cash transaction reports and 600,000 electronic fund transfer reports.

Brigitte Alepin and the Mouvement d'éducation et de défense des actionnaires suggested that Canadian banks should not be permitted to have branches in tax havens and offshore financial centres. Some witnesses said that these banks are potentially aiding Canadian-resident individuals, corporations and trusts in their attempts to avoid taxation in Canada, and are avoiding taxation themselves. In its brief to the Committee, the Mouvement d'éducation et de défense des actionnaires argued that, if no consensus can be reached on the issue of prohibiting banking activities in tax havens and offshore financial centres by Canadian financial institutions, the government should force financial institutions with such activities to provide detailed reports on staff and taxes paid to local tax authorities in those jurisdictions before obtaining federal contracts in Canada.

Other witnesses supported banking activities in tax havens and offshore financial centres by Canadian financial institutions. The Canadian Bankers Association stated that

Canadian banks pay all tax owing on their business income earned in Canada and in other countries in which they do business. Regarding the benefits for Canada of allowing Canadian financial institutions to operate in tax havens and offshore financial centres, Walid Hejazi stated that — by competing globally and earning foreign income — banks generate economic benefits in Canada, such as more highly skilled, high-paying head office jobs, and higher profits from which dividends are paid to Canadian shareholders.

CHAPTER 4 — TAX COLLECTION AGENCIES AND THE EXCHANGE OF TAX INFORMATION

Witnesses appearing before the Committee made a variety of statements in relation to tax collection agencies and the exchange of tax information. For example, they commented on the transparency of bank and ownership information, the U.S. *Foreign Account Tax Compliance Act*, tax information exchange agreements, double taxation treaties and the automatic exchange of tax information.

A. Transparency of Bank and Ownership Information

A number of the Committee's witnesses spoke about some of the challenges faced by tax authorities when collecting information from foreign jurisdictions. The OECD, Don Johnston and Global Financial Integrity stated that certain tax havens and offshore financial centres have bank secrecy laws that make it difficult to obtain financial information that is specific to an individual. The Tax Justice Network shared the results of its study of the level of secrecy in countries around the world. In particular, it found that the top five "secrecy jurisdictions" were Switzerland, the Cayman Islands, Luxembourg, Hong Kong, and Delaware and Nevada in the United States.

Some witnesses noted that small corporations may be used to conceal income and activities from tax authorities and the public. Global Financial Integrity and the Halifax Initiative said that the government should require every corporation and trust created in Canada to provide beneficial ownership information about the true owners of the entity. The Tax Justice Network suggested that all countries should require public disclosure of the ownership of all companies and trusts created in their jurisdiction. Paul Collier advocated stricter liability for the law firms that establish such corporations, while H. David Rosenbloom — a tax lawyer with Caplin and Drysdale who appeared on his own behalf — noted that there is a long history of secrecy in relation to tax information to ensure taxpayer compliance with the law, but felt that public disclosure of tax information related to corporations and trusts could be examined.

B. U.S. *Foreign Account Tax Compliance Act*

In their appearance before the Committee, some witnesses discussed the U.S. *Foreign Account Tax Compliance Act* (FATCA), which came into force on March 18, 2010. The FATCA requires foreign banks to disclose annually, to the IRS, the names of all American account holders, or a 30% withholding tax will be applied on all U.S. income earned by the institution or by an account holder. The Canadian Bankers Association stated that, with the FATCA, the United States is trying to bypass the exchange of information between the IRS and foreign tax authorities and, instead, to get information directly from foreign financial institutions. In its view, this approach could create problems because of conflicts between Canadian privacy legislation and the FATCA.

As well, a number of witnesses said that the size of the U.S. economy and the amount of money invested in the United States by non-resident individuals has allowed the United States to have some success with reporting requirements in respect of foreign accounts. While Arthur Cockfield suggested that Canada should pursue mandatory bank account reporting requirements for foreign financial institutions operating in Canada, David Sohmer thought that this measure would be much more difficult for the Canadian government to pursue due to the relatively small size of the Canadian economy and the importance of foreign investment in Canada. Robert Kepes advocated an examination of the implementation of a FATCA-like regime for foreign financial institutions that operate in Canada, while Global Financial Integrity indicated that Canada should implement its own version of FATCA in order to prevent cross-border tax evasion by individuals. The Tax Justice Network requested a FATCA-like regime that would apply to foreign branches of Canadian banks and would require such branches to submit financial information in relation to Canadian account holders to the CRA or risk losing the right to operate in Canada. Finally, in order to promote the exchange of taxpayer information, Arthur Cockfield advocated incentives that would induce tax havens and offshore financial centres.

C. Tax Information Exchange Agreements

As noted earlier, some witnesses informed the Committee that the OECD's Global Forum Working Group on Effective Exchange of Information has developed a model for TIEAs, with the aim of promoting international co-operation on tax matters through the exchange of information. A number of witnesses supported Canada's involvement in negotiating, signing and ratifying TIEAs specifically and in exchanging information more generally, and some felt that the use of tax havens and offshore financial centres for illegitimate purposes is minimized when there are agreements on transparency and the exchange of information between foreign jurisdictions and Canada. Scott Michel and David Sohmer argued that TIEAs prevent "fishing expeditions" because the name of the person and the foreign account number are required. Claude Vaillancourt stated that tax authorities are hampered because of the detailed information that is required in order to pursue prosecution of tax evaders, as ownership of funds is often disguised, for example through the use of holding companies. Other witnesses indicated that it takes a long time to correlate the information obtained in the foreign jurisdiction with the identity of the Canadian taxpayer. In order to address concerns about delays and a lack of information, the Canadian Bankers Association suggested that the government should attempt to incorporate the automated non-resident reporting requirement that exists in the Canada–U.S. double taxation treaty into TIEAs. It also supported an increase in the number of signed and ratified TIEAs. Arthur Cockfield commented that countries that sign TIEAs may not co-operate and share information due to differing tax and privacy laws; in that context, he advocated a multilateral taxpayer bill of rights to ensure the existence of a "level playing field" for taxpayers and tax authorities.

In commenting on the effectiveness of TIEAs, a number of witnesses indicated that they do not have any measures by which effectiveness can be assessed. Due to the difficulty in processing information requests, H. David Rosenbloom was not certain that TIEAs are effective in obtaining information from foreign jurisdictions, and the

Halifax Initiative noted that recent double taxation treaties — including the treaty between the United Kingdom and Switzerland — impose a withholding tax rather than a requirement to exchange the identity of the taxpayer. Gilles Larin suggested that a regular review mechanism designed to examine the effectiveness of TIEAs is needed, and said that the government should establish key indicators of success; these indicators could be modelled on existing indicators developed by the European Union and could be part of memoranda of understanding between signatory jurisdictions once a TIEA has been ratified.

D. Double Taxation Treaties

In speaking to the Committee, Gilles Larin stated that changes in domestic law and international standards require the establishment of amendment mechanisms for double taxation treaties. In particular, he noted that changes to these treaties can occur through the negotiation of a new treaty between countries, an amendment to an existing treaty — which is known as a "protocol" — or the establishment of an agreement between tax authorities. In his view, Canada should undertake a review of all double taxation treaties currently in force in order to identify treaties with obsolete information exchange provisions; Canada should repudiate those treaties if a new treaty, protocol or agreement is not concluded. The Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens suggested that Canada should not negotiate tax treaties under the OECD's current model, and should instead review the current agreements to ensure that they prevent "tax leakage."

Gilles Larin spoke about the tax convention between Canada and Switzerland, noting that — unlike the majority of Canada's tax conventions currently in force — the prevention of tax fraud or tax evasion is not a stated goal of the recent protocol to amend the convention. As well, according to him, Switzerland will not assist a foreign tax authority when the tax information request is based on information obtained from informants or whistleblowers. In February 2011, the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes decided that TIEAs signed by Switzerland to that date had not conformed to the OECD's TIEA standard. As a result, in that month, Switzerland reduced the amount of documentation required for a tax information request by another tax authority and now allows taxpayers to be identified without using their name; as well, it permits the financial institution to remain unknown. All of Switzerland's tax conventions and amending protocols signed prior to these changes, including with Canada, will need to be changed.

In commenting on improved sharing of information, an official from the Department of Finance noted that Canada has signed amending protocols with Austria, Barbados, Luxembourg and Switzerland, and has begun negotiations on protocols with Malaysia and Belgium.

E. Automatic Exchange of Tax Information

A number of the Committee's witnesses spoke about the possibility of automatic exchange of tax information between tax authorities to aid in the taxation of offshore income and to prevent tax evasion. In noting that TIEAs that involve the exchange of information upon request by a tax authority may be ineffective, the Halifax Initiative and Canadians for Tax Fairness advocated the creation of a multilateral framework for the automatic exchange of information between tax authorities and for the collection of financial information related to transfers made by financial institutions to non-resident individuals, corporations and trusts. The Canadian Bankers Association and a number of Canadian banks, such as Scotiabank, BMO Bank of Montreal, the Canadian Imperial Bank of Commerce, HSBC Bank Canada, RBC Royal Bank and TD Bank Financial Group, supported a multilateral approach so that rules would be harmonized among countries. However, an official from the Department of Finance said that the automatic exchange of information would only be effective among countries that have similar tax systems and that collect similar information.

Global Financial Integrity highlighted the success of the multilateral EU Savings Taxation Directive, which requires the automatic exchange of financial information between a financial institution and the domestic tax authority of the taxpayer receiving a payment from that institution; it advocated a similar system for OECD member countries. The Tax Justice Network noted that the automatic exchange of the identity of the recipient of the payment — and not the amount of the payment — would be required. In speaking about the exchange of information in relation to taxpayer identity, Arthur Cockfield mentioned that taxpayers could be identified by a unique number so that countries could trace and track a taxpayer's income.

CHAPTER 5 — DOMESTIC AND INTERNATIONAL MEASURES TO REDUCE AGGRESSIVE TAX PLANNING AND TAX EVASION

The Committee's witnesses spoke about a number of measures designed to reduce aggressive tax planning and tax evasion, including additional rules to close tax loopholes, whistleblower programs, amnesty measures, initiatives in relation to tax advisors and corporate directors, and changes to the roles of existing international groups.

A. Additional Rules to Close Tax Loopholes

Some of the Committee's witnesses argued that additional tax rules could help to reduce either tax evasion or the amount of tax that is evaded. For example, the OECD suggested that all business expenses should be disallowed for tax purposes in the foreign jurisdiction where evasion is suspected. It also supported the introduction of a reverse onus provision for transactions occurring in a tax haven, so that the taxpayer would be required to prove to the tax authority that there is a legitimate reason for using the jurisdiction. Arthur Cockfield said that the denial of business expenses in foreign jurisdictions by the CRA could be difficult to implement without coordination with the foreign tax authority.

Don Johnston stated that tax authorities need increased transparency regarding tax information so that information regarding tax evasion schemes is available as new rules for the prevention of tax evasion are being drafted. A Department of Finance official suggested that the creation of additional rules would not reduce the number of taxpayers who do not file a tax return, and would not increase the amount of income reported, as tax returns are completed by the taxpayer.

In its brief to the Committee, the Mouvement d'éducation et de défense des actionnaires supported the repeal of tax rules allowing Canadian corporations to deduct the interest paid on funds borrowed to invest, either directly or indirectly, in foreign affiliates. An official from the Department of Finance highlighted that Canadian changes to the taxation of foreign branches of Canadian corporations and the Canadian branches of foreign corporations would be inconsistent with taxation by other countries, as all developed countries treat foreign income identically by not taxing the income in the home jurisdiction. In his view, changes to Canadian taxation of foreign income earned by a domestic corporation may reduce the competitiveness of Canadian businesses.

Regarding the taxation of international income earned by resident corporations, H. David Rosenbloom suggested that Canada should conduct a systematic review of rules relating to cross-border activity, with special rules for tax havens. As an alternative to the arm's-length principle currently used for companies located in other jurisdictions, he provided the example of special transfer pricing rules for transactions involving corporations located in tax havens; these special rules would take into account the worldwide income of the corporation. The Tax Justice Network noted that transfer pricing

rules that use the arm's-length principle result in under-taxation, and suggested the creation of a unitary basis for taxation of multinational corporations that would apportion the profit earned by a corporation to its economic presence in a jurisdiction to determine the taxable income in that jurisdiction. H. David Rosenbloom felt that the arm's-length principle was not working, and suggested a formulary regime, while Arthur Cockfield advocated a more precise definition for the term "fair market value." Finally, Brigitte Alepin argued that a centralized tax system or a single worldwide tax should be created.

The 2013 federal budget announced measures that would reduce the use of certain aggressive tax planning schemes by corporations, such as loss trading, thin capitalization and the conversion of business income into a capital gain.

B. Whistleblower Programs

In his appearance before the Committee, Robert Kepes highlighted the whistleblower program in the United States. This program awards compensation — ranging from 15% to 30% of the amount collected — to individuals who provide information to the IRS, provided the information results in the collection of taxes from a non-compliant taxpayer; he suggested the creation of a similar program in Canada. Paul Collier also supported the creation of a whistleblower program in Canada. In noting the increase in voluntary disclosures in the United States after the disclosure of secret financial information through that country's whistleblower program, Don Johnston said that a whistleblower program can deter tax evasion. The 2013 federal budget announced the Stop International Tax Evasion Program, which would enable the CRA to compensate individuals with knowledge of major international tax non-compliance; compensation would be up to 15% of the tax collected as a result of the information provided.

C. Amnesty

Some of the Committee's witnesses commented on granting amnesty to tax evaders who negotiate lower penalties or who do not pay the full amount of tax owing to the CRA. Accountability Research Corporation felt that granting amnesty from future prosecution would not result in disclosure by individuals who obtained the undeclared income through criminal activities, while a Department of Finance official suggested that amnesty for these individuals would reward their non-compliant behaviour. Arthur Cockfield supported a temporary amnesty from future prosecution, as the main reason for disclosure is the possibility of amnesty from criminal prosecution, while Stephen Jarislowsky was opposed to granting amnesty, believing that tax evaders would just wait for the next amnesty program in order to disclose undeclared income; as well, he did not support reducing tax owed as a means of encouraging disclosure. He favoured harsh penalties if amnesty is misused by the taxpayer, and indicated that undeclared income should be taxed and interest assessed from the time at which the income was earned, regardless of statutory time limits. In his brief to the Committee, Robert Kepes indicated that a "blanket amnesty" would result in taxpayers evading taxes and waiting for the next amnesty program before disclosing undeclared income.

D. Tax Advisors and Corporate Directors

A number of the Committee's witnesses shared their views about the regulation of tax advisors and about methods to ensure that these individuals share responsibility when their clients engage in tax evasion. Arthur Cockfield mentioned that the accounting profession could be better regulated, with more disclosure by accountants to the government of tax evasion schemes, but argued that such disclosure by Canadian lawyers and accountants would not reduce tax evasion due to the provision of offshore tax services through the Internet. Accountability Research Corporation said that accountants and mutual fund organizations need third-party oversight, and argued that a single securities regulator would not necessarily solve the problem of tax evasion that is associated with securities fraud, as there is no guarantee that more prosecutions would occur with a single regulator. The Mouvement d'éducation et de défense des actionnaires suggested that higher penalties for tax advisors whose clients are found guilty of tax evasion would deter them from creating tax evasion schemes, while the OECD informed the Committee that other jurisdictions — such as the United Kingdom — have implemented penalties for tax advisors who urge their clients to engage in tax evasion.

A Department of Finance official noted that Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation, contains provisions that would create a reporting regime for taxpayers involved in aggressive tax avoidance transactions, with penalties for taxpayers who fail to report.

In its brief to the Committee, the Mouvement d'éducation et de défense des actionnaires requested amendments to the *Canada Business Corporations Act* in order to define the role of corporate directors with respect to their corporations' tax strategies, as the consequences of aggressive tax strategies could affect the financial viability of the company. In a related suggestion, the OECD suggested that corporate governance legislation, such as the *Canada Business Corporations Act*, should include tax compliance as part of good governance.

E. International Groups

Some of the Committee's witnesses suggested that, due to its current influence in the global community, the Group of Twenty would be a good forum for the creation of a tax law enforcement working group; this group could pursue coordinated, multilateral enforcement strategies that could be broader in scope than the OECD measures. To include developing countries in the tax enforcement process, the Halifax Initiative and the Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens supported transformation of the United Nations Committee of Experts on International Cooperation in Tax Matters into an intergovernmental commission. Finally, Scotiabank mentioned that the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes should be used to enforce transparency in relation to bank information.

CHAPTER 6 — RECOMMENDATIONS

The Committee recommends:

1. That the federal government, in an effort to promote transparency and better prevent international tax evasion, continue to pursue tax information exchange agreements with appropriate countries. These agreements should be based on the Organisation for Economic Co-operation and Development's international standard.

2. That the federal government provide the Minister of National Revenue with more authority to obtain business identification information, such as in relation to a business' operating name and legal name, ownership, business activities and contact details. The authority should include the ability of the Canada Revenue Agency to withhold certain refunds claimed by a business until the requested information is provided.

3. That the federal government, consistent with the announcement in the 2013 federal budget, establish a whistleblower program through which the Canada Revenue Agency can pay rewards to individuals who provide it with information about major international tax non-compliance that leads to the collection of outstanding tax.

4. That the federal government require all entities obliged to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to obtain information about the beneficial ownership of customers that are corporations, trusts or other entities. The reporting entities should take reasonable measures to ascertain, and keep a record of, this information.

5. That the federal government continue to support the efforts of the Group of Twenty finance ministers and central bank governors to develop measures to address base erosion and profit shifting, to take necessary collective actions and to examine the Organisation for Economic Co-operation and Development's forthcoming comprehensive action plan.

6. That the federal government continue to encourage all jurisdictions to sign the multilateral Convention on Mutual Administrative Assistance in Tax Matters and to support the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

7. That the federal government continue to maintain taxpayer morale by ensuring clear messaging of ongoing efforts directed to ensuring fairness and transparency in Canada's tax system.

8. That the federal government continue to examine proposals to improve the caseload management of the Tax Court of Canada and to explore the possibility of further ways in which to facilitate more rapid prosecution of tax evaders.

9. That the Canada Revenue Agency commit to applying the General Anti-Avoidance Rule in the *Income Tax Act* to aggressive international tax planning.

10. That the federal government create an efficient system to identify and prioritize the continuous closure of loopholes and the development of tax legislation to curb egregious forms of tax avoidance.

11. That the Canada Revenue Agency extend the period of time during which the names of individuals, corporations and trusts convicted of either tax evasion or a failure to file income tax returns are listed on the Canada Revenue Agency's website. The period, which is currently six months, should be increased to one year.

APPENDIX A
LIST OF WITNESSES

41st Parliament – First Session Organizations and Individuals	Date	Meeting
Canada Revenue Agency	2013/02/05	102
Terrance McAuley, Assistant Commissioner, Compliance Programs Branch		
Brian McCauley, Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch		
Richard Montroy, Deputy Assistant Commissioner, Compliance Programs Branch		
Department of Finance		
Brian Ernewein, General Director, Tax Policy Branch		
Royal Canadian Mounted Police		
Jean Cormier, Officer In Charge Operations Support, Federal Policing Criminal Operations		
Stephen R. Corney, Sergeant, Money Laundering Program Coordinator		
As an individual	2013/02/07	103
H. David Rosenbloom, Caplin and Drysdale, New York University, School of Law		
Global Financial Integrity		
Thomas Cardamone, Managing Director		
Halifax Initiative Coalition		
Peter Gillespie, Project Director		
As an individual	2013/02/14	105
Arthur Cockfield, Professor, Faculty of Law, Queen's University, Fulbright Visiting Chair in Policy Studies, University of Texas		
Canadian Bankers Association		
Darren Hannah, Director, Banking Operations		
Marion Wrobel, Vice-President, Policy and Operations		
Canadians for Tax Fairness		
Dennis Howlett, Executive Director		
Tax Justice Network		
Richard Murphy, Director		

41st Parliament – First Session Organizations and Individuals	Date	Meeting
As an individuals	2013/02/26	106
Paul Collier, Professor, Economics and Public Policy, Blavatnik School of Government, University of Oxford		
Walid Hejazi, Professor, Rotman School of Management, University of Toronto		
Robert Kepes, Barrister and Solicitor, Morris Kepes Winters LLP Tax Lawyers		
Embassy of the Republic of Costa Rica		
H.E. Luis Carlos Delgado Murillo, Ambassador of the Republic of Costa Rica to Canada		
Organization for Economic Co-operation and Development Donor Assistance Committee Peer Review Team		
Pascal Saint-Amans, Director, Centre for Tax Policy and Administration		
Quebec Association for the Taxation of Financial Transactions for the Aid of Citizens		
Claude Vaillancourt, President		
BMO Bank of Montreal	2013/03/21	111
Jean Richard, Vice-President and Senior Consultant, Wealth Management Group, BMO Nesbitt Burns		
Canadian Imperial Bank of Commerce		
Steven Blackburn, Vice-President and Chief Anti-Money Laundering Officer		
HSBC Bank Canada		
Scott Bartos, Senior Vice President and Chief Compliance Officer, Chief Anti-Money Laundering Officer		
RBC Royal Bank		
Russell Purre, Deputy Chief Anti-Money Laundering Officer		
Scotiabank		
Nanci York, Vice-President, Enterprise Regulatory Projects		
TD Bank Financial Group		
Carmina Hughes, Head, Global Anti-Money Laundering Compliance		

APPENDIX B
LIST OF WITNESSES

40th Parliament – Third Session Organizations and Individuals	Date	Meeting
Canada Revenue Agency	2010/12/13	54
Lucie Bergevin, Director General, International and Large Business Directorate, Compliance Programs Branch		
Richard Montroy, Deputy Assistant Commissioner, Compliance Programs Branch		
Lyse Ricard, Deputy Commissioner		
Department of Finance		
Alain Castonguay, Senior Chief, Tax Treaties, Tax Policy Branch		
Brian Ernewein, General Director, Tax Policy Branch		
As an individual	2011/02/01	55
Brigitte Alepin, Chartered Accountant, Agora, Services de fiscalité Inc.		
Organisation for Economic Co-operation and Development		
Jeffrey Owens, Director, Centre for Tax Policy and Administration		
Université du Québec à Montréal		
Alain Deneault, Researcher, Chaire de recherche du Canada en mondialisation, citoyenneté et démocratie		
As an individual	2011/02/03	56
Hon. Donald James Johnston, Founding Partner, Heenan Blaikie LLP		
As an individual	2011/02/08	57
David Sohmer, Shareholder, Spiegel Sohmer Inc.		
Caplin & Drysdale		
Scott D. Michel, President		
HSBC Bank Canada		
Scott Bartos, Senior Vice-President and Chief Compliance Officer		
As an individuals	2011/02/17	59
Arthur Cockfield, Associate Professor, Faculty of Law, Queen's University		
Lawrence S. Rosen, Accountability Research Corporation		

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As an individual	2011/03/03	61
Walid Hejazi, Associate Professor, University of Toronto		
Jarislowsky Fraser Limited		
Stephen Jarislowsky, Chairman and Director		
Mouvement d'éducation et de défense des actionnaires		
Louise Champoux-Paillé, Member of the board of directors		
Financial Transactions and Reports Analysis Centre of Canada	2011/03/08	62
Yvon Carrière, Senior Counsel		
Denis Meunier, Assistant Director, Financial Analysis and Disclosures		
Royal Canadian Mounted Police		
Stephen Foster, Director, Commercial Crime Branch		
David G. Rudderham, D Division, Financial Integrity (Manitoba)		
Stephen White, Director General, Financial Crime		
As an individual	2011/03/10	63
Gilles Larin, Chairman, Research on Public Finance and Taxation, Professor, Université de Sherbrooke		
Canadian Bankers Association		
Nancy Fung, Vice-President, Banking Operations		
Darren Hannah, Director, Banking Operations		
Government of Manitoba	2011/03/22	64
Gord Schumacher, Director, Criminal Property Forfeiture		
Government of Ontario		
James McKeachie, Senior Counsel, Civil Remedies for Illicit Activities		
Organized Crime Agency of British Columbia		
Sgt. Raymond Harriman, Combined Forces Special Enforcement Unit		
Insp. Michael Ryan, Combined Forces Special Enforcement Unit		
Sûreté du Québec		
Lt. André Boulanger, Module Chief, Organized Financial Crime Division		
Francis Brabant, Legal Counsel, Office of the Assistant Director of Criminal Investigations		
Insp. Denis Morin, Investigative Unit on Financial Integrity		

APPENDIX C
LIST OF BRIEFS

41st Parliament – First Session

Organizations and Individuals

Canadians for Tax Fairness

Embassy of the Republic of Costa Rica

APPENDIX D
LIST OF BRIEFS

40th Parliament – Third Session

Organizations and Individuals

Government of Manitoba

Hejazi, Walid

Larin, Gilles

Mouvement d'éducation et de défense des actionnaires

Organisation for Economic Co-operation and Development

Organized Crime Agency of British Columbia

Rosen, Lawrence S.

Sohmer, David

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 102, 103, 105, 106, 111 and 114) from the 41st Parliament, First Session and (Meetings Nos. 54-57, 59 and 61-64) from the 40th Parliament, Third Session) is tabled.

Respectfully submitted,

James Rajotte, M.P.

Chair

SUPPLEMENTARY OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA

The report: *Tax Evasion and the Use of Tax Havens*, successfully details the linked problems of tax evasion and the inappropriate use of tax havens. Unfortunately the recommendations of the report fail to adequately confront these very serious problems and, for this reason, New Democrat members of the Finance Committee have been compelled to submit this supplementary opinion.

Testimony from several witnesses exposed the enormous erosion of the Canadian tax base as a result of tax cheats. Independent estimates suggest that Canada could be losing between $5.3 billion to $7.8 billion annually in tax revenue as a consequence of the illegal use of tax havens. Nevertheless, witnesses from the Ministry of Finance and CRA testified that there has been no effort to measure the international tax gap on the part of the government.

New Democrats strongly believe that the federal government has an obligation to measure or estimate, to the greatest accuracy possible, Canadian tax losses to international tax havens and tax evasion, in order to the determine the federal "tax gap". Without such an estimate, it is impossible to determine the degree of tax base erosion or measure the adequacy of corrective measures. The UK, the US and Australia have published official estimates of the tax gap; there is no reason Canada cannot do the same.

It is also imperative that the Canada Revenue Agency require Canadian corporations, including their subsidiaries, to disclose all taxes paid in other jurisdictions, on a country-by-country basis, with the goal of achieving greater transparency in the operation of Canadian corporations in offshore tax shelters.

The diminishing capacity of the CRA to pursue tax cheats is of particular concern to New Democrats. Hundreds of millions of dollars are being cut from the Canada Revenue Agency's assessment and compliance divisions. The Agency has also cut 3,000 positions over the next three years. Such deep cuts will inevitably undermine the Agency's ability to pursue tax cheats and recover lost tax revenue.

To that end, New Democrats propose that the Auditor General be asked to evaluate, on a regular basis, the success of the Canada Revenue Agency in prosecuting and settling cases of tax evasion. The Auditor General or the PBO should also be asked to provide estimates of the marginal revenue that would be derived from the investment of additional CRA resources (e.g., auditors) in the areas of tax evasion and tax avoidance.

The effectiveness of Tax Information Exchange Agreements was called into question by several witnesses during this study. Conservative members of the committee repeatedly touted the signing of such agreements as a significant step in the fight against international tax evasion, but that assertion was repeatedly contradicted by several witnesses who testified as to the inadequacy of bilateral agreements that lack automatic information exchange.

It is critical that the federal government quantitatively evaluate the effectiveness of template bilateral Tax Information Exchange Agreements. In line with OECD recommendations, New Democrats propose that the federal government increase efforts to work multilaterally with international partners to move towards a system of automatic tax information exchange.

Transfer pricing, which can allow for the shifting of income to jurisdictions with low tax requirements, is another issue of particular concern that is not satisfactorily addressed in the recommendations set out

in the majority report. Testimony revealed that f several major multinational corporations have manipulated transfer pricing in order to avoid paying taxes in countries where corporations have substantial trading operations.

The practice of transfer pricing has come under serious scrutiny recently in the United States and Europe, after Starbucks and Google came under fire for manipulating transfer prices to shift profits into low tax jurisdictions. For example, it was reported that Starbucks paid just £8.6 million in corporation tax in the UK over the past 14 years, despite sales of £3.1 billion in the country. Starbucks subsequently promised to pay £20 million over two years, despite the fact that its practices fell within the bounds of a flawed legal system.

Testimony revealed that, in the United Kingdom, the amount that large multinational companies may have underpaid has risen 48% last year. As another marker of the scope of the problem, China retrieved approximately US $398 million of tax dollars after 178 investigations of transfer pricing in 2010, a 24% increase from the previous year.

Due to the complex nature of this problem, New Democrats propose that the Finance Committee undertake a dedicated study on the issue of transfer pricing by multinational corporations, including an examination of international best practices with the goal of taking urgent action on this issue.

The study also clearly demonstrated the need for the federal government to deal with those who enable tax evasion. New Democrats suggest that the government create an efficient system to identify tax evasion enablers, including accountants, lawyers and other professionals.

Our hope for this study was that it would provide us with a clearer understanding of the scope of the problem of tax havens for Canada, and what we can do to improve Canada's approach to this pressing issue. The study has made it abundantly clear that Conservative policies are failing to protect the integrity of our tax system and prevent the erosion of our tax base.

New Democrats greatest concern emerging from this study is that the Conservatives will persist in their ineffective approach to dealing with tax cheats, despite the overwhelming evidence that a stronger, evidence-based response is necessary.

New Democrats are committed to addressing tax evasion and ensuring the integrity of our tax system. We believe that the government of Canada has a responsibility to protect Canada's tax base and ensure fair taxation for all Canadians. When tax cheats are allowed to continue unpunished, it means that law abiding Canadians are forced to bear more of the burden.

It is critical that we put an end to the likely billions of dollars of Canadian tax dollars currently being lost through tax evasion. The recommendations included in the report *Tax Evasion and the Use of Tax Havens* simply do not go far enough to effectively address this very serious problem.

It is our sincere hope that the government will consider and implement the recommendations of the New Democratic members of the committee, which, in summary, are:

1. That the federal government study and measure, to the greatest accuracy possible, Canadian tax losses to international tax havens and tax evasion, in order to the determine the Canadian federal "tax gap".

2. That the Canada Revenue Agency require Canadian corporations, including and of all of their subsidiaries, disclose all taxes paid in other jurisdictions, on a country-by-country basis, with the goal of achieving greater transparency in the operation of Canadian corporations in offshore tax shelters.

3. That the Auditor General evaluate, on a regular basis, the success of the Canada Revenue Agency in prosecuting and settling cases of tax evasion.

4. That the Auditor General or the PBO provide estimates of the marginal revenue of additional CRA resources (i.e. auditors) in the areas of tax evasion and tax avoidance.

5. That the federal government create an efficient system to identify tax evasion enablers including accountants, lawyers and other professionals.

6. That the federal government re-evaluate the effectiveness of template bilateral Tax Information Exchange Agreements.

7. That the federal government increase efforts to work multilaterally with international partners to move towards a system of automatic tax information exchange.

8. That the Finance committee under take a dedicated study on the issue of transfer pricing by multinational corporations, including examining international best practices with the goal of taking urgent action on this issue.

SUPPLEMENTARY OPINION OF THE LIBERAL PARTY OF CANADA

The Liberal Party applauds the Committee's decision to conduct this study on tax evasion and build on the work undertaken during the previous Parliament. We would like to thank the many individuals and organizations who have taken the time to share their knowledge and provide recommendations to the Committee on this issue since October 2010. We would also like to thank Senator Percy Downe for his tremendous work and the leadership that he has shown on this issue.

Although we agree with many of the findings and recommendations contained in the majority report, the Liberal Party believes that stronger action is needed. Furthermore, we are concerned that the Government of Canada has failed to provide the Committee with the information it needs to offer Canadians a holistic perspective regarding overseas tax evasion.

Calculating the Tax Gap

Throughout the study, the Government downplayed the importance of calculating and publishing estimates of how much tax revenue Canada loses to overseas tax evasion. In the absence of Canada Revenue Agency (CRA) doing this work, Senator Downe has asked the Parliamentary Budget Officer (PBO) to calculate Canada's tax gap.[1] However, when the PBO requested data from CRA so that he could prepare his own

[1] http://sen.parl.gc.ca/pdowne/english/Communications/News_Releases/Senator_asks_Parliamentary_Budget_Officer_to_Investigate_CRA_Failure_to_Apply_Resources_in_Addressing_Overseas_Tax_Evasion_oct242012.htm

independent estimate of the tax gap,[2] CRA refused to provide the PBO with the information he requested.[3]

As the PBO pointed out in his response to Senator Downe, Canada is an international outlier on this matter: fourteen OECD countries, including the United States and the United Kingdom, estimate their tax gaps.[4] The majority report's failure to recommend that CRA take this basic step in dealing with offshore tax evasion undermines its credibility.

There is no doubt that calculating a country's tax gap is not a straightforward matter; governments and NGOs use many methods to estimate missing tax revenues and some of those methods produce more accurate results than others. Nonetheless, it is an important exercise. As a matter of accountability, honest Canadian taxpayers have the right to know how tax cheats are compromising the integrity of the tax base. Furthermore, calculating the tax gap will allow the CRA to provide sounder estimates of both the resources they need to prosecute international tax evaders and the revenue they can expect to recover through their investigations.

Cuts to the Canada Revenue Agency

According to the Government's response to Liberal MP Sean Casey's Order Paper Question Q-1174 on staffing cuts at CRA, the Government plans to cut 2,568 full-time equivalent (FTE) positions at CRA. Moreover, the Government's response shows that

[2] http://www.pbo-dpb.gc.ca/files/files/IR0102_CRA_Tax_Gap_Estimates_EN.pdf
[3] http://www.pbo-dpb.gc.ca/files/files/Response_IR0102_CRA_Tax_Gap_Estimates_EN.pdf
[4] http://www.pbo-dpb.gc.ca/files/files/2013-03-02_Response_to_Senator_Downe_EN.pdf

both the International Audit Program and the Aggressive Tax Planning Program have seen consistent and substantial FTE reductions since 2009.

The Committee heard from a number of witnesses that CRA lacks the resources it needs to go after tax cheats. In fact, CRA's own October 2010 internal audit raised concerns about the Agency's ability to deal with complex cases of international tax evasion.[5] Noting that 84% of convictions resulting from CIP investigations involved recovery of less than $100,000, the auditors wrote that *"[c]ases that could potentially represent significant criminal non-compliance can be rejected by a specific TSO enforcement group because of limited resources or other workload pressures"*.[6] Today, when tax cheats have access to ever-more sophisticated tools and technology, the Government's cuts to CRA are especially ill-timed.

The international evidence suggests that spending on offshore tax research and collection is an effective investment. The United Kingdom's 2009 commitment of £4 million to address the matter is set to bring in revenues of £7 billion.[7] As of February 2013, Australia's Project Wickenby, established in 2006 with a budget of $308.8 million over seven years (increased by $122.1 million in 2008 and by $76.8 million in the 2012-2013 budget), has raised $1.59 billion in liabilities, recouped $691.9 million, and secured 35 convictions.[8] Canada's own experience reflects those of the United Kingdom and Australia. The Government of Canada's investment of $30 million in Budget 2005 (during the previous Liberal administration) had a fiscal impact of $2.5

[5] http://www.cra-arc.gc.ca/gncy/ntrnl/2011/nfrcmntdclsprgms2011-eng.html
[6] Ibid.
[7] Jeffrey Owens, 1 February 2011.
[8] http://www.ato.gov.au/corporate/content.aspx?menuid=0&doc=/content/00220075.htm&page=21&H21; http://www.ato.gov.au/corporate/content.aspx?menuid=0&doc=/content/00220075.htm&page=16&H16

billion by 2009. CRA needs smart, targeted investments, not dramatic cuts across all program areas.

International Strategy

Offshore tax evasion is a multi-jurisdictional challenge. While Tax Information Exchange Agreements (TIEAs) may be part of such a strategy, they do not necessarily include provisions for automatic exchange of information, or the sharing of best practices. Canada should ratify the *Convention on Mutual Administrative Assistance in Tax Matters* and work with its partners around the world to develop an international strategy for reducing the use of tax havens.

Conclusion

Without adequate CRA resources, a detailed estimate of Canada's tax gap, and a commitment to an effective international strategy, the Liberal Party believes it will be difficult for Canada either to reduce its own tax gap or to play a leadership role in reducing the international use of tax havens.