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Mercredi 25 février 2009

**Standing Committee on
Public Accounts**

2008 annual report,
Auditor General:
Ministry of Revenue

**Comité permanent des
comptes publics**

Rapport annuel 2008,
Vérificateur général :
ministère du Revenu

Chair: Norman W. Sterling
Clerk: Katch Koch

Président : Norman W. Sterling
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 25 February 2009

Mercredi 25 février 2009

The committee met at 122 in committee room 1, following a closed session.

2008 ANNUAL REPORT, AUDITOR GENERAL MINISTRY OF REVENUE

Consideration of section 3.10, gasoline, diesel fuel and tobacco tax.

The Chair (Mr. Norman W. Sterling): Welcome to the public accounts committee of the Legislature of Ontario. We're meeting in committee room 1, which is smoke-free, as well as all of the Parliament buildings of Ontario, just in case anybody was interested. I mention that because we're considering today section 3.10 of the 2008 annual report of the Auditor General, which was delivered in early December 2008. That section 3.10 was on gasoline, diesel fuel and tobacco taxes collected by the Ontario government.

We have with us today Carol Layton, deputy minister; Terry Hewak, assistant deputy minister, tax revenue division; Peter Deschamps, director, special investigations branch; Scott Nixon, director, audit inspections and programs; and Richard Gruchala, director, tax advisory services branch.

Welcome to our committee. I understand, Deputy Minister Layton, you have an opening remark.

Ms. Carol Layton: I do. Thank you, Mr. Chair. You did mention that this is a smoke-free building, but I have to admit that today we're not entirely cigarette-free in this room. For the benefit of the committee, should the opportunity arise or should there be a desire, we did bring some of the interesting product that is out there in the contraband market that we could show later on, and also describe it for the benefit of Hansard. I did want to just make a note of that.

The Chair (Mr. Norman W. Sterling): I'm sure you won't incite us so that anybody would want to light up anyway.

Ms. Carol Layton: Hopefully, that won't encourage you to do that.

Mr. Ernie Hardeman: I was just going to check if we could make a deal when we're through.

Ms. Carol Layton: No deals. No deals.

I am Carol Layton. You did introduce all of the folks, but this is Terry Hewak right here, just so you know, Peter Deschamps over there, Scott Nixon here, Richard

Gruchala on my far left; and behind, also, I'd like to acknowledge some folks on both sides from the Ministry of Revenue who are here to support this, as well as just to observe this important part of our accountability system.

I would like to thank the members of the standing committee for the opportunity to come here today. As a long-serving Ontario public servant, I am very respectful of the role that's played by our legislative officers, like our Auditor General, as well as the role of the committees of the Legislature, like this Standing Committee on Public Accounts, in ensuring accountability to the people of Ontario for the fiscal resources that are entrusted to us.

I am here to discuss section 3.10, which is the gasoline, diesel fuel and tobacco tax, of the 2008 Auditor General's report, which was released in December, and the ministry's progress in addressing the recommendations contained in the report. Before addressing the report, I will give just a very brief overview of the Ministry of Revenue.

The ministry was created in February 2007 in recognition of the significance of the tax administration function and the modernization efforts under way to provide service excellence to taxpayers and benefit recipients in Ontario. The ministry employs just over 2,400 people in 21 office locations around the province.

The ministry administers the province's major tax statutes, tax credit and benefit programs. The ministry revenues collected provide the fiscal foundation upon which many of the province's programs and services are based.

The ministry strives to operate on a fair, effective, cost-efficient and confidential tax system basis and also strives to minimize the regulatory and administrative burden to individuals and businesses. We maintain the integrity of the province's self-assessment system by encouraging voluntary compliance through taxpayer education and by conducting audits, inspections, investigations and collection activities. We also have an impartial objections review process.

In 2007-08, the ministry did process a total of 2.3 million assessments and tax returns across all of its statutes, responded to 568,000 telephone inquiries, assisted more than 67,000 walk-in clients, registered exactly 58,996 new tax clients and made personal visits to almost 7,000 vendors at their places of business to help them better understand their tax obligations.

The ministry recently completed an important project, the harmonization of Ontario's corporate tax collection and administration system with that of the Canada Revenue Agency. We call that CTAR, the corporate tax administration redesign project, which is reducing costs and improving efficiency for Ontario businesses through a single, federally administered corporate income tax system. It means one form, one tax collector, one audit process and one set of income tax rules for 2009—the current year—and subsequent tax years.

Ontario businesses will save up to \$100 million in compliance costs as a result of this harmonization. They'll also save a further \$90 million a year from the move to a harmonized corporate income tax base.

I'm now going to turn, though, to the Auditor General's recommendations, of which there were 11: seven addressing issues around tobacco and four directed towards gasoline and diesel fuel. It wasn't a recommendation, but there was also some comment at the end of the report on business process re-engineering.

First to address the tax gap: With regard to the consumption of untaxed tobacco products and forgone tobacco tax revenues, the Auditor General states that "the potential tax gap for 2007 alone could be in the \$500-million range." In our response, we explain that it is difficult to define the size of the tax gap with any degree of certainty as it is dependent upon the information and estimates used and the assumptions made in the calculation. Any level of non-compliance and the tax losses arising from illegal tobacco products are of serious concern to the ministry and the government.

To address this issue requires a combination of policy, administrative and enforcement initiatives, working with our partner ministries, the federal government, cross-border jurisdictions and the First Nations leadership. As was expressed in our formal report to this committee, this is a complex issue that does not lend itself to easy resolution. But the government is looking to find common ground and balanced solutions to address the tax gap and the broader issue of tobacco sale and consumption through a number of intersecting initiatives.

Work is well advanced in several areas and has been initiated in others. The multi-pronged, multi-ministry approach includes the comprehensive smoke-free Ontario strategy that I think this committee is well aware of; fostering new relationships with our aboriginal leaders; general enforcement at the retail level; legislative amendments to strengthen tobacco tax compliance provisions; and partnerships with law enforcement agencies to address the issue at the distribution level, and that includes our international partners.

The smoke-free Ontario strategy incorporates some of the strongest tobacco control legislation in North America. We complement that strategy through our audit and inspection efforts targeted at tobacco retailers and through our partnerships with law enforcement agencies.

In addition, measures announced in past provincial budgets have strengthened the tobacco tax compliance provisions.

Most recently, the Budget Measures and Interim Appropriation Act, which received royal assent on November 27, 2008, included a manufacturer registration requirement for purchasers and importers of cigarette-making machinery, higher penalties and more seizure provisions. For example, before these provisions were enacted, a retailer found with just one carton of illegal cigarettes would have received a penalty of \$74.10. Today, that penalty is \$574.10.

On the issue of the tobacco retailer inspection program, we believe that the physical presence of ministry staff in communities across the province, coupled with inspections of tobacco retail locations, is proving to be an effective tool in limiting the number of illegal cigarettes available to consumers through the retail network. This province-wide inspection program inspects tobacco inventories and business records of tobacco retailers. During any routine retail inspection, inspectors also provide information, including printed materials, to tobacco retailers to educate and advise them of their responsibilities related to the sale of tobacco products. Since the inception of the tobacco retail inspection program in 2006, the number of tobacco tax inspectors has nearly doubled and there now is an average of about 600 retail inspections every month.

I want to just quickly stop on one point. Page 11, the final page of the report that was submitted back on February 3—it's dated February 3—I have handed out a new page 11 and have highlighted the difference from what we submitted on February 3. It's a correction; in particular, a reconciliation. The point I made in the old one was that in the last two years, the tobacco retail inspection program assessed penalties of \$7.9 million and confiscated approximately 828,000 cigarettes. We have a further edit, and it speaks to the fact that since the inception of the program, which goes from July 2006 up to the most recent statistics, we've actually assessed penalties of \$9 million and confiscated about six million cigarettes. That's the new edit we wanted to be sure we provided to you.

In addition to our inspection activities through the tobacco retail inspection program, our inspectors also work with the Ministry of Health Promotion and municipal health units to conduct joint inspections.

In 2007, a number of legislative amendments were introduced to the Tobacco Tax Act. Significant among these were provisions which authorize the ministry to prohibit a retail location from selling, offering for sale and storing any tobacco if they are found to have repeatedly contravened the Tobacco Tax Act or sections of the Smoke-Free Ontario Act.

The implementation of this temporary prohibition program included an educational campaign to raise awareness among retailers. This included a brochure called *If You Sell Tobacco*, and I have copies available that we could hand out for the committee. That particular brochure was inserted into a magazine targeted at retailers called *Your Convenience Manager*, or YCM. The July-August 2008 issue was distributed to approximately

14,000 convenience store retailers. The brochure is available in 14 different languages in addition to French and English.

Additional outreach activities included information presented at vendor training sessions held in conjunction with our health units across the province; tax information forums—we hold several of those each year; and a trade show hosted by the Ontario Korean Businessmen's Association.

The Auditor General also commented on the effectiveness of border security. The ministry recognizes the importance of working with federal and provincial enforcement agencies to deal effectively with the importation of illegal cigarettes and other tobacco products. The special investigations branch, headed by Peter Deschamps, at my far right, recently created an intelligence unit, which will allow for a more proactive approach, greater coordination of joint projects with existing partners and better outreach capability to foster new partnership efforts on this issue.

The special investigations branch, otherwise known as SIB, regularly partners with the Cornwall-Valleyfield integrated border enforcement team—those teams are known as IBETs, and there are several of them around the province. The lead agency on IBET is the RCMP. Other participants are the Canadian Border Services Agency, municipal police services, provincial government agencies and United States agencies. This year to date, the special investigations branch has participated in 11 joint operations, four with the integrated border enforcement team agencies in the Cornwall area alone.

Regarding the tobacco allocation system on First Nations reserves, Ontario protects the right of First Nations people to buy untaxed cigarettes on-reserve for their personal consumption. This is accomplished by authorizing a sufficient quantity of untaxed cigarettes to be made available by registered wholesalers for delivery to authorized on-reserve retailers. These cigarettes are intended for sale only to First Nations individuals in accordance with section 87 of the federal Indian Act.

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There is a need to continue to work with First Nations leaders to ensure that the tobacco allocation system is respected. We recognize that there are limitations to the province's ability to enforce provincial tobacco tax laws on First Nations reserves. Recent amendments to the Tobacco Tax Act permit the exchange of information with other governments and municipalities and their agencies, boards and commissions where the information is used in the enforcement of legislation relating to or regulating the manufacture, distribution, export, import, storage, sale or advertisement for sale of tobacco. This will help facilitate greater coordination and effectiveness among the levels of government.

The Auditor General recommended that an allocation system for cigars be developed, similar to that for cigarettes. The ministry is reviewing options and is doing so in the context of the government's focus on fostering its new relationship with aboriginal communities, and implementation would require regulatory change.

The Auditor General recommended that options be assessed to ensure that all cigarettes manufactured and packaged for taxable consumption in Ontario are accounted for and the applicable tax paid. Among amendments adopted in 2004 to the Tobacco Tax Act and its regulations were enhanced registration and reporting requirements for cigarette manufacturers and for manufacturers of tear tape. The ministry has registered three tear tape manufacturers and receives from them monthly production and sales information about yellow tear tape material. We are examining the ability to reconcile this information with the number of packages of cigarettes manufactured on which tear tape has been affixed. The reconciliation of tear tape purchase and use will be done during audits on cigarette manufacturers commencing in fiscal 2009-10, which is just around the corner.

The Ministry of Revenue agrees with the Auditor General's recommendations regarding tobacco, gasoline, diesel and tax return processing. His recommendations relate to ensuring that all returns and relevant schedules are received and assessed for completeness and accuracy, and there is follow-up to questionable items.

Since the 2001 Auditor General report, the ministry has enhanced registration and reporting requirements for manufacturers and introduced regulation and reporting requirements for transporters of tobacco products, as well as refiners and transporters of fuel and gasoline products. We have reviewed filing procedures and staff access to file storage areas to ensure that hard copies of returns are retained as required. In addition, manual checklists and procedures for cross-checking returns and confirming receipt of required schedules and information have been developed. Where necessary, our employees follow up with the registrant to obtain the missing schedules information.

Also, the ministry has acquired a commercial off-the-shelf system as the base product for its new multi-statute single tax administration system, Ontario's Tax Services, otherwise known as ONT-TAXS. Once we have transitioned commodity taxes from our current STARPAC legacy system to ONT-TAXS, this new system will ensure that all information from the tobacco tax returns/schedules is captured and retained, the reported information is assessed for completeness, any incomplete or missing documents are identified, and follow-up correspondence and exception reports are generated for investigation by staff as required. The development work is underway now and the ministry's planned implementation for tobacco, gasoline and diesel tax returns onto the ONT-TAXS system is the fall of 2009.

With respect to the recommendations regarding ensuring that gasoline tax refunds are only issued for eligible gasoline purchases, namely for on-reserve gasoline retailers' sales to First Nations consumers, in September 2008 the ministry began phasing in an electronic filing system. This electronic refund system presents a great advantage by moving from a manual processing system to an automated one and will enhance our ability to validate claims and identify questionable ones. It will also mean

that gasoline retailers who use the electronic process receive their refunds in a matter of days, as distinct from weeks right now.

Through a continuing partnership with Indian and Northern Affairs Canada, otherwise known as INAC, the processing of gasoline tax exemptions would be further enhanced with INAC's move to modernize the status Indian identification card. When the federal government is ready to launch its new card, the Ministry of Revenue will be able to partner with them to further streamline the provision of statutory refunds to First Nations retailers.

The Auditor General made recommendations regarding the ministry's audit coverage for the gasoline, diesel and tobacco tax programs. A risk-based audit selection system is being utilized. Risk profiles for motor fuels and tobacco tax accounts have been defined to support audit selection. The ministry's tax compliance branch created a training unit to support ongoing improvement. Training for all audit staff has been held. As well, each audit file includes a management involvement form that documents all the discussions and decisions between the auditor and the audit manager.

Regarding the diesel inspection program, work plans are reviewed on an ongoing basis as fuel prices fluctuate and risks therefore increase or decrease. For example, this fiscal year, the frequency of inspections of terminal and bulk plants has been reduced in recognition of the level of tax compliance in this area. Emphasis has shifted to coloured-fuel checks of vehicles, large consumers of diesel fuel and wholesalers because of the risk factors in these areas which have increased with the rise in the price of fuel.

Finally, I'd like to comment on the business process re-engineering item at the end of the Auditor General's report. Our ministry is currently improving our business processes through what we call MOST, which stands for the modernizing Ontario's system for tax administration project. This was launched in 2004 and was mandated to replace more than 65 older tax administration systems with one integrated tax system, ONT-TAXS, which I mentioned earlier. This system will provide service enhancements for Ontario's tax clients, including online tax services.

After intensive consultation and research and a competitive RFP process, the ministry acquired a commercial off-the-shelf product, which I mentioned earlier, which has proven successful in two other Canadian provinces and in 16 US jurisdictions. This solution has incorporated best practices from these previous implementations.

With this new solution in hand, the Ministry of Revenue has taken a measured approach to phasing in online tax administration services for Ontario businesses between 2008 and 2010. Before the system goes live for all businesses and tax types, we are doing all we can to test the system and make sure that all appropriate safeguards are in place and to tailor the system to meet the needs of Ontario's clients.

This past summer, we introduced ONT-TAXS online to a small volunteer group of retail sales tax clients. In

December 2008, we broadened the online services to all retail sales tax and employer health tax clients and introduced new online functions which allow tax clients to authorize their employees or tax representatives to conduct business with the ministry on their behalf. Later this year, ONT-TAXS online will be available to gasoline, diesel fuel and tobacco tax clients.

To ensure we got it right when we were developing ONT-TAXS, we set up an advisory group to provide us with feedback and suggestions on the types of services and tools that would best meet client needs. We will continue to rely on the advice of the business community as we move forward. Their input is essential as we continue to strive to have a tax administration system that is efficient, fair and flexible, supports compliance and reduces the burden on business.

As I conclude my remarks, on behalf of the Ministry of Revenue, I'd like to thank the Auditor General for his thorough audit and for his very instructive recommendations. I, along with my colleagues, would now be pleased to take any questions from the members of the committee.

The Chair (Mr. Norman W. Sterling): Thank you very much, Deputy.

Mr. Hardeman.

Mr. Ernie Hardeman: Right at the start, how closely the Ministry of Revenue is tied to the tobacco control smoke-free Ontario legislation—how does that fit in with the mandate of the Minister of Revenue?

Ms. Carol Layton: The way I see it is that they're complementary. Smoke-free Ontario is about encouraging our youth to stop smoking; it's about banning smoking in, as you know, workplaces and public places; and recent amendments around even smoking with young children in cars. That's about encouraging the population of people to just not smoke.

At the Ministry of Revenue, our mandate is to ensure that the tax laws that we have are complied with. The bottom line there right now is that we still have, certainly, people out there smoking. We do have, as we know, an active market for contraband cigarettes in particular, and we're working to address the cigarettes that are out there on the contraband market.

We want the legal network to operate properly and the retailers to certainly abide by the laws, sell and make sure that things like the power walls are properly respected. When we do send tobacco retail inspectors in, we often do go in with the municipal health inspectors as well because there's complementary work that we're looking at in that regard, in particular, selling to minors and that sort of thing.

I think the key thing here is that the legitimate selling of tobacco and compliance with tobacco tax is certainly within the mandate of the ministry, but at the end of the day, smoke-free Ontario is about trying to certainly encourage a population of people to not smoke.

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Mr. Ernie Hardeman: I would hope that all ministries of the government work together to do the job. As I

read the recommendations from the Auditor General, the biggest concern in what we're reviewing now is our inability to collect taxes from everyone fairly. That's why I wondered about the smoke-free Ontario, because it seems to me, while we have people working to make sure the power walls are proper, that they're not selling cigarettes to minors and all those things, that's not likely the area where we have the greatest risk of illegal cigarettes they didn't pay any taxes on being sold. So if our resources are going there, is that the most cost-effective way of doing the job of the Ministry of Revenue?

Ms. Carol Layton: The smoke-free Ontario resources, I think, first of all, are well-spent resources in that regard. We want to get at the youth, we want to get at all those issues. The Ministry of Revenue's resources: Because we are not a ministry that is divvied up by statute but we can work across all statutes, between auditors, inspectors, investigators, educators out there with our clients, I think we feel that we do have an organizational structure and an alignment of our business lines to support the overall priorities. We certainly strive overall to encourage tax compliance. We certainly strive overall to also, though, work in a manner that ensures that we have a competitive business environment, looking at the regulatory burden that is out there, looking at the many different pieces of legislation and the scope to bring in simpler language.

I think all in, we would suggest to you that the resources are fairly well aligned for the priorities. We do have a focus, certainly, on the tobacco retail inspection program, the fact that the retail chain is the largest network, in a sense, out there. Through the resources that we've had and the increase in the inspectors we have out there, we have been able to see a 50% reduction in the amount of cigarettes that are contraband that are being sold through the stores, and that's a significant achievement.

Mr. Ernie Hardeman: If I had any power on this committee and I said, "I get to do one thing that will make the ministry more effective"—and why we're there is to collect everybody's taxes—what would we do that would make your job easier and more effective?

Ms. Carol Layton: Coming from you, or from anybody? What I would say is making our job easiest and most effective is the fact that we are indeed one ministry working among several ministries on a defined set of priorities. We know that when it comes to, for example, tobacco—in particular contraband tobacco, because I think that's where you're focused right now—tax administrators can't do it alone.

We have to rely, certainly, on the role of Brad Duguid and his ministry in fostering great relations with our aboriginal leaders. That's critical; the First Nations leadership is going to be critical in this issue. We have to rely on the work of the Ministry of Health Promotion and the smoke-free Ontario strategy. We have to rely on the work of our Ministry of Finance through the tax policies that they design and write which we then administer, and the tax legislation also that they design and write. And we

certainly have to look to our partners: the province of Quebec, which has as big a problem as Ontario; the federal government; as well as, certainly, our other border entities like the state of New York as well as the US government. Peter's people work very closely with the RCMP and the Canadian Border Services Agency.

I guess the point that I'd make is that it's multi-jurisdictional, multi-partner that is going to address the sort of issues that we have to address here.

Mr. Ernie Hardeman: I don't want you to take it that I'm critical or that you shouldn't be doing it; I'm just trying to get a handle on what it is that needs to be done. Is the answer more technology? I'm more interested in that \$500 million that's still out there somewhere that we're not getting. Is it more technology? Is it more people? What's required to—

Ms. Carol Layton: Successive budgets in 2004—not 2005—2006, 2007 and 2008 all gave us greater enforcement tools, higher fines, sentencing provisions, better scope to share information across jurisdictions and definitely more resources—the tobacco retail inspection program came in, in July 2006, just a few months after the smoke-free Ontario strategy came in. So, as a ministry, I think we are feeling fairly well resourced in that regard, and I think we're very fortunate in having the opportunity to retire 65 legacy systems soon, because of this wonderful ONT-TAXS system, a multi-year system that has already got, as I said, the retail sales tax and employer health tax on, and we're bringing in gasoline, fuel and tobacco, and the wonderful functionality of that system across all statutes that's going to give us a lot of online capability imaging as well as online processing. So stuff comes in that way, and there's the ability to do an awful lot more dissecting of information and working across it.

We're delivering that system on time and on budget, which itself is a good achievement, given other IT systems. So we're feeling very fortunate that the resources were there in the fiscal plan for us to put the ONT-TAXS system in, and we will have it pretty well all in by March 2010. I think there's going to be a much better opportunity for the ministry to be able to assess and analyze and to slice and dice and be able, therefore, on a risk basis, to direct its resources wherever they're best needed.

The Chair (Mr. Norman W. Sterling): Any questions?

Mr. Jerry J. Ouellette: How many locations would retail cigarettes in the province of Ontario?

Ms. Carol Layton: How many actual retailers, Scott?

Mr. Scott Nixon: The number of retail outlets will vary a little bit. If you think in terms of convenience stores and tobacco stores, there are approximately 15,000 to 20,000. It can go up to the 20,000 range because there are other areas that do sell cigarettes, such as bowling alleys.

Mr. Jerry J. Ouellette: You mentioned 600 daily inspections—

Ms. Carol Layton: Six hundred a month.

Mr. Jerry J. Ouellette: Six hundred a month. How long would it take to inspect that number of locations?

Mr. Scott Nixon: With the resources that were included in the 2008 budget, we anticipate that we'll be able to hit most of the retail outlets once per year.

Mr. Jerry J. Ouellette: When an infraction takes place—I know when there's an illegal alcohol transaction, the inspectors come in—what is the penalty for it?

Mr. Scott Nixon: If we look at the tobacco retail inspection program, if contraband tobacco is found, the amount of tax assessed as a penalty will be equal to three to eight times the value of the tobacco tax, and that will vary with the number of occurrences and the amount of tobacco found. As Deputy Minister Layton said, in the 2008 budget, the three times the tax has been supplemented by minimum penalties. So on a first occurrence, one carton would be approximately a \$75 penalty prior to the current minimum; it's now \$570. On a second occurrence, the minimum penalty is \$2,500; on a third occurrence, \$5,000.

Mr. Jerry J. Ouellette: And there's no downtime? The stores aren't closed at all?

Mr. Scott Nixon: If subsequent inspections actually do indicate there is a pattern and recurrence, we do have the ability under the act to prohibit the sale of tobacco completely for a period of up to 30 days. We would do that in conjunction with the Tobacco Tax Act legislation and also recognizing the smoke-free Ontario infraction that can be, again, working in partnership where we recognize the smoke-free Ontario legislation to count the number of occurrences toward prohibition.

Mr. Jerry J. Ouellette: How many times has it occurred that you've actually implemented that?

Mr. Scott Nixon: It being a fairly new provision, we have actually done our first prohibition notice.

Mr. Jerry J. Ouellette: So in an annual—

Mr. Scott Nixon: We've done one at this point.

Ms. Carol Layton: Mr. Ouellette, if I could just make one comment on the point Scott made that the provision in the recent budget allows us to basically visit each store once a year, I guess the point I'd make is that we don't pick up the telephone and let them know we're coming. Based on the intelligence of the inspecting community, our inspectors out there in communities around the province determine the schedule as well. So they have some discretion in that regard as well.

1300

Mr. Jerry J. Ouellette: Is there joint training between other forces to assist you? For example, in the event of a convenience store robbery, a police department locally or the Durham Regional Police would be called in to do a review of that. Would they have any training information to be able to identify contraband material in their store?

Mr. Scott Nixon: We do work with other agencies to help our inspection staff be able to identify contraband tobacco. They're trained in the marking and the printing, things like that. Again, working in conjunction with our special investigations branch and with the policing authorities, there could be some back and forth and sharing of information that would lead to assessments.

Mr. Jerry J. Ouellette: It was mentioned earlier on that there were a number of locations that had been identified throughout the province as producing cigarettes that were sold as contraband. Currently, the province maintains controls of slot machines through a licensing provision. Is there some similar provision that could be utilized for the production of cigarettes, so that the province could maintain control of production wherever it takes place throughout the province?

Ms. Carol Layton: We do have a licensing provision for cigarette manufacturers, wholesalers, the whole scope of that. Maybe I'll turn to Richard to take you through that.

Mr. Richard Gruchala: We do have provisions for registration. So, as manufacturers, there is a legal requirement to register. I think we have 15 registered manufacturers in the province of Ontario. There are also provisions for transporters of tobacco products. There are provisions for importers, exporters, for wholesalers, for markers. So a regime is in place for registration requirements for all of those entities.

Mr. Jerry J. Ouellette: It's a licensing provision, though. Correct?

Mr. Richard Gruchala: It's a registration.

Mr. Jerry J. Ouellette: Is there a difference between registration and licensing?

Mr. Richard Gruchala: Perhaps not in the vernacular, but I just use the word "registration"—

Mr. Jerry J. Ouellette: I'm thinking along the line of slot machines. There has been constant mention of the First Nations community's difficulties and then having control on First Nations. My understanding is that the province controlled the rights to slot machines in First Nations casinos, because they own the rights to slot machines. Is the same provision available in such a fashion for manufacturers?

Mr. Richard Gruchala: We have a provision in the 2008 fall bill that requires registration for importers and those possessing manufacturing equipment. There's a series of penalties and sanctions that go along if that registration is not provided. There are also seizure and forfeiture provisions in there. So we have strengthened the requirements for cigarette-making machinery.

Mr. Jerry J. Ouellette: We're constantly talking about the problem with taxation loss. It's the key focus when we're discussing the issue at all. If there were no taxes lost on cigarettes, I don't think they would be discussing the issue at all.

Is it possible for—looking outside the box—another form of taxation to be used for cigarettes, as opposed to end-user, to production and sale of tobacco at that time? Obviously, it would take a multi-jurisdictional push to make that an effective way to control contraband cigarettes—so at the sale time of tobacco and at the production level, as opposed to the retail level. Would that be potentially another way of controlling or a better way of controlling production or contraband activities?

Ms. Carol Layton: First of all, any sort of tobacco tax policy change, of course, is the domain of our colleague

ministry, the Ministry of Finance. But I think it's fair to say that the lion's share of contraband tobacco that comes into the province of Ontario comes in from the United States. It's not produced in the province of Ontario. So I think, certainly, our best focus—and then likewise, in talking with my colleague in the province of Quebec—is to try to get at the source of the problem, working with multi-jurisdictional, as opposed to thinking through a totally different tobacco taxing regime.

Mr. Jerry J. Ouellette: The United States, we were informed earlier, was moving forward with a new program that's essentially completely funded on tobacco tax. With that coming forward, there is an expectation of greater contraband sales in the United States as well. I think that discussions with other jurisdictions about other ways to deal with this would go a long way to help their problems as they move forward into Canada as well, because it's only going to get worse in other locations.

Lastly, in your statements you mentioned the First Nations retailers. There has been a strong movement in a number of different areas with the Metis associations. Are you anticipating any changes with the demands from the Metis organizations?

Ms. Carol Layton: I'd have to speak to the Ministry of Aboriginal Affairs to get a better appreciation of that sort of thing, because right now, for example, the allocation system is for First Nations. The actual exemption of tobacco tax is for the First Nations population. It's not for the Metis population or the Inuit population, which make up the full scope of the aboriginal population in the province. In terms of any specific policy work that relates to how the Metis fit into all of this, I would have to defer, certainly, to our colleagues at the Ministry of Aboriginal Affairs on that.

Mr. Jerry J. Ouellette: That's all from me. Thank you.

Ms. Carol Layton: Thank you.

The Chair (Mr. Norman W. Sterling): Can I just get a clarification on some of the answers that were given there? You have 600 inspections per month; I multiply that out to be 7,200 stores. You said there were 20,000 outlets. How do you match 7,000 to 20,000?

Mr. Scott Nixon: Effective January 2009, the resources were increased, so there is an additional group of inspectors that will be out on the road during the next period. The numbers will go up from 600.

The Chair (Mr. Norman W. Sterling): And in the material the deputy gave us, you indicated that there were penalties of \$9 million—

Ms. Carol Layton: Assessments, yes.

The Chair (Mr. Norman W. Sterling): How much of that has been collected?

Ms. Carol Layton: We can just double-check that by looking that up.

Mr. Scott Nixon: At the time we raised the assessment, approximately 40% were paid right away. That equates, from the inception of the program, to about \$2.1 million of the \$9 million assessed. The outstanding amounts are turned over to our collections branch and

they've collected another \$2.2 million of that. So we have actually collected over half of the amounts assessed. It is still a relatively new program and the amounts remain on our accounts receivable.

The Chair (Mr. Norman W. Sterling): That's \$4.5 million you've collected over how many years?

Mr. Scott Nixon: Since July 2006, so two and a half.

The Chair (Mr. Norman W. Sterling): So it's about \$2 million a year you're collecting. How much of the problem of the sale of contraband cigarettes do you think is in the existing retailers and how much of the sale do you think is occurring outside of the retailers?

Mr. Scott Nixon: When the program started in July 2006, we did notice a higher occurrence of the finding of contraband tobacco in a retail outlet. As the program has progressed and people have become aware and have been educated through our inspection program, we have noticed that the instance of finding contraband tobacco is now down to about 50% of the original amount. So we are finding smaller amounts and a higher level of overall compliance in the retailer community, but you're correct: We do have to watch where those networks may move to next.

The Chair (Mr. Norman W. Sterling): But you haven't answered my question. How much is being sold outside of retail? Do you have any estimates of that at all?

Mr. Scott Nixon: Quantities, no; again, it's an underground economy. We don't really have a number on that.

The Chair (Mr. Norman W. Sterling): So from the figures in the auditor's report, it indicates you're going to have 58 inspectors, January 1, going forward, and that you're going to be able to get into every retail store there. Your past history has been that you collected \$2.5 million a year. How much are the 58 inspectors going to cost?

Mr. Scott Nixon: Tracking our current history, assuming that the amounts assessed will remain approximately the same during the sample period—because, as I said, we have seen a decrease—we've looked at it and it's approximately a \$2.25 return on every dollar we spend on the program.

The Chair (Mr. Norman W. Sterling): I would have thought 58 inspectors might have cost you, with all costs in, \$75,000 a year per inspector. And if you have 58 of them, you're probably at \$4 million? I'm just sort of calculating here roughly.

Mr. Scott Nixon: Yes, and we're looking at—

The Chair (Mr. Norman W. Sterling): And the \$2.5 million is probably higher than what you're going to get going forward because, as you say, there's been a reduction. So how do you get a higher collection—

Mr. Scott Nixon: The amount we will assess will be slightly higher than the amount collected because, as I mentioned, some will be paid right away; some will fall into our collection process and will be followed up and collected. So when we look at the gross amount assessed—when we look at the return on investment, it's on the amount assessed.

The Chair (Mr. Norman W. Sterling): So you're not doing it on real money that we're receiving? In other words, we're losing money on this? The taxpayers are losing money on this?

Mr. Scott Nixon: I wouldn't say we're losing money. Part of the value of the program is the awareness of the program and being out in the marketplace to discourage the sale through the retail outlets. So there is a cost of having that business out there, but we are, again, assessing amounts that we do anticipate the province will follow through on for collection or potential writeoff.

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The Chair (Mr. Norman W. Sterling): Okay. Questions? Mr. Marchese.

Mr. Rosario Marchese: Ms. Layton, I want to start off with a general question because the Auditor General has done a review of these things as of 2001. So in 2008, it reveals that we have ongoing problems. I don't know who has been there the longest, but from 2001 until 2004, did we make good progress?

Ms. Carol Layton: Certainly, yes—I wasn't there, but I could look to my colleagues—I think there was some good progress, reading the Hansards from back in 2004 when Colin Andersen represented this ministry. It talked then about some improvements, different process improvements, audit improvements as well, but it was the 2004 budget and budgets onward that have certainly provided significantly more resources to help support that.

Mr. Rosario Marchese: I get the impression, when you look at the auditor's report of 2008, that the progress wasn't that great. Given that you say in 2004 there were additional resources, and then again in 2006, you would think, given the additional resources and all the improvements we had made from 2001 to 2004, that the auditor's report would not be as critical of what you've been doing in the ministry. How do we explain that? We made improvements. We got more resources. We still have criticism. How does it work?

Ms. Carol Layton: Just on that, and others can jump in as well, we have made improvements. We've re-oriented the ministry, first of all, to work across all the different statutes. So we're not-statute specific. It was in 2004 and 2005 that we started to improve the technology system, the new ONT-TAXS system, which began and is going to be fully completed by 2010. We have seen inspectors coming into the process. We have seen the special investigations process becoming more and more enhanced.

An interesting point that the Chair was trying to also get at is that through the tobacco retail inspection program, as a sort of year-to-date, we comment on the fact that about six million cigarettes have been seized. But through the special investigations work, which is the work that we do with our colleague agencies—the RCMP, the Canadian Border Services and the OPP—something like, in 2007-08 alone, 25 million cigarettes were seized. The point that I would make there is that there are many aspects to the work we are doing. It is about audit, it is about inspections, it is about investi-

gations, it is about education and it is about system functionality.

Mr. Rosario Marchese: I understand. I want to start with the tax gap argument. I recognize you understand it's serious. People use different assumptions, and it's hard to really pin down a number. But even if it wasn't \$500 million, let's say it was \$300 million, it's still a big number, and of course you take it seriously; we all do. There are a number of things you say you are doing that require a combination of policy, administrative enforcement initiatives, working with our partner ministries, the federal government, cross-border jurisdictions and First Nations. Then you go on to talk about the multi-pronged, multi-ministry approach, which I'm not sure is part of the things I just read out or different. There you say this approach includes a comprehensive smoke-free Ontario strategy. So this is part of the solution towards dealing with the tax gap?

Ms. Carol Layton: No. What I wanted to make a point on there was that that strategy, which came out in 2006, first and foremost, in reducing consumption is reducing demand, and especially getting at the youth out there in particular, if there is also a supply of cheap cigarettes available for them.

Mr. Rosario Marchese: Fostering new relationships with the province's aboriginal leaders: There was an old relationship and there's a new one now?

Ms. Carol Layton: I think it's fair to say that there are certainly efforts out there to renew them. I've been on to certain reserves, and most deputies, within their mandate, are developing their relationships with the different First Nations leaders, as well as other leaders, for the different programs that they have. So I think it is important to really make headway here—

Mr. Rosario Marchese: Of course. I agree. I'm just curious about the word "new," which suggests that whatever old relationship was there was bad and now we've created a new one. I was interested in knowing what kind of new—

Ms. Carol Layton: It's an evolving relationship, I think it's fair to say.

Mr. Rosario Marchese: Then you say there's a general enforcement at the retail level, which you've been doing for quite some time.

Ms. Carol Layton: Since 2006, yes.

Mr. Rosario Marchese: The auditor was talking about making sure that we also look at the point of manufacture, including importation of untaxed cigarettes and whether or not we have the right balance in terms of going to retail, which you want to do and we all want to do, versus the point of manufacture. Could you explain—you or others—where that balance is or how much you're spending by way of inspectors at the retail level versus the point of manufacture and importation of illegal—

Ms. Carol Layton: I think Scott has explained certainly what we're spending in terms of inspectors. Because we have the registration system that we're talking about, we do have—and I can't cite exactly the figures, unless you're able to, Richard—a fairly rigorous

regime in terms of making sure that the manufacturers, wholesalers, transporters and importers all come into the ministry and they are properly registered for the certain service or business that they want to be in.

Mr. Rosario Marchese: But just specifically for me, because I have found the comment by the auditor very useful in terms of how much inspection we do at the point of manufacture: You're almost able to pinpoint how many we send at the retail level, but can we pinpoint the number of inspectors that we send to the point of manufacture? Do we have such a number? Does it exist? Do we know?

Mr. Scott Nixon: From a manufacturing point of view, audit resources would actually be a federal resource from the excise point of view. So from an inspection point of view, anything we do at a manufacturing location will be fairly limited because, again, the liability may not occur at that point. In the case of most manufacturers, they're not selling directly. They're selling product to a wholesaler who is actually our tax collector. We would do some inspection work, but not to the same degree, and again there's a limited number of manufacturing sites in Ontario.

Mr. Rosario Marchese: Okay. The new Ontario tax system presumably is solving a lot of the questions the auditor has raised. Is it solving those questions?

Ms. Carol Layton: Certainly it's going to go a far way to give us all the functionality that we need to be able to assess on a risk basis and also to be able to just have a better appreciation of the activity that's going on there through the returns that we receive and the analysis that we're able to provide.

Mr. Rosario Marchese: Okay. One of the comments in our research says this system has now been tested and implemented. It is being implemented but it's phased in; is that correct?

Ms. Carol Layton: That's right.

Mr. Rosario Marchese: We're phasing it in because we don't have the resources or we're testing it as we go? Why aren't we doing it—

Ms. Carol Layton: All at once?

Mr. Rosario Marchese: —all at once?

Ms. Carol Layton: It is a commercial off-the-shelf system. It is a system, as I said, that's used in a number of other jurisdictions, and we're learning from them. In fact, we're even mentoring a country now because they're now looking at Ontario in terms of this particular system.

When you bring in a system, you have to change your processes. You've got to train staff. You've got to think about the actual functionality that you want. So we started with the retail sales tax, which is the largest of the provincial taxes at about \$17 billion. We also have the employer health tax, which was an easy one to bring in as well, and we are now moving and working through, with all the different experts we have in the different branches, the gasoline tax, as well as the diesel and the tobacco tax. You just don't plop it in and turn the switch.

Mr. Rosario Marchese: I hear you. I understand.

On the cigar taxes, you say, "The Auditor General recommended that an allocation system for cigars be developed, similar to that for cigarettes." You're reviewing your options and you're "doing so in the context of the government's focus on fostering its new relationship with aboriginal communities. Implementation would require a regulatory change."

Ms. Carol Layton: Right.

Mr. Rosario Marchese: Now, you say it would require a regulatory change as if somehow—

Ms. Carol Layton: That's not an impediment. No, I wasn't saying it that way.

Mr. Rosario Marchese: I wanted to be clear, because a regulation change doesn't require a bill. It just says you, the ministry, have the power to do this with your minister and you can.

Now, you're in agreement with this, I'm assuming, with the suggestion made by the auditor?

Ms. Carol Layton: With the need to look at the options as to what that cigar allocation system would be? Absolutely.

Mr. Rosario Marchese: Looking at the options. Now, the auditor says we should be doing it and you're saying we should look at the options. What are the options?

Ms. Carol Layton: I would look to the other folks to determine exactly what it's going to be, but we would look certainly to the format of the cigarette allocation system right now, which is very much a formula-based system, and assess it to see whether it's exactly the sort of format for cigars as well. The type of people who smoke cigars are a little bit different, I think, than the folks who smoke cigarettes, so we just want to be sure—

Mr. Rosario Marchese: I think that's true.

Ms. Carol Layton: Not being a smoker, I do get the sense of that. So I think we just want to be sure what are all the different options, what's the right timing for it, given the work that we're doing, and, quite frankly, the political sensitivities that we have with our aboriginal leaders.

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Mr. Rosario Marchese: I should say, I smoke cigars from time to time, and I hate cigarettes. So it's interesting. We are different animals; it's quite true.

How long do you—

The Chair (Mr. Norman W. Sterling): Can I ask a supplementary, Mr. Marchese? Given that every other province has this, save the two territories, when is this going to be done?

Mr. Rosario Marchese: That's the question I was going to ask.

The Chair (Mr. Norman W. Sterling): I'm sorry.

Mr. Rosario Marchese: But that's okay, Mr. Chairman. You have a perfect right to involve yourself.

When, do you think?

Ms. Carol Layton: I would have to look to the Minister of Revenue to get some advice and some leadership in terms of when we're going to do that. We need to put the right series of options before him as well.

Right now, can I say that we're going to have a cigar allocation system by this time next year? I'm just not sure.

Mr. Rosario Marchese: For some reason, my impression is that it wouldn't be too complicated, yet you're making it appear to me that it is complicated. I'm trying to absorb why, and I still don't get it.

Ms. Carol Layton: One thing I would comment on is that, right now, where we're putting an awful lot of emphasis and certainly where I'm putting a lot of my time as a deputy minister is on the contraband tobacco issue. We're working with colleagues in other provinces, other jurisdictions, and working with some of the key First Nations leaders as well. It's a question of where you put your time and attention and where the risk is. I think the contraband tobacco situation is a pressing problem, relative to the cigar allocation system.

Mr. Rosario Marchese: Okay, Mr. Chair. I don't mind us going around again.

The Chair (Mr. Norman W. Sterling): Perhaps you could consult with your minister, and if there's any additional information, you would write us and give us that.

Ms. Carol Layton: Sure.

Mr. Rosario Marchese: That would be helpful.

The Chair (Mr. Norman W. Sterling): Yes, go ahead.

Mr. Yasir Naqvi: Thank you, Deputy and everyone else from your staff, for your time in talking about a very complex problem, which is quite multi-jurisdictional and international in scope.

We've been talking about the tobacco retail inspection program and the resources needed. Can you or Scott perhaps describe to us how a retail audit is conducted?

Mr. Scott Nixon: Certainly. The inspection itself, again, is on a retail business location. It's done on an unannounced basis, so the retailer is not aware when we arrive. Our inspector is uniformed for recognition. We try to be as unobtrusive as possible while we're there and not be disruptive to the business, but the inspector will be there looking for contraband cigarettes offered for sale on the retail premise site. They're often accompanied by an audit staff member to work and look at the books and records. This is usually done if there's an indication found that there were insufficient records to support the tobacco products that are on the shelves. To show that their Ontario tobacco tax has been paid on the product, we'll do a reconciliation of the records. So it's twofold: We're there, basically, to ensure that the contraband tobacco is not available for sale, and also to help educate the retailer as to the requirements.

We talked earlier about if contraband tobacco is found; we will raise an assessment. We'll look at the quantity of contraband found at the site, as well as the number of occurrences, and make a determination on the assessed value for the penalty on the contraband tobacco, perhaps potentially leading to a prohibition for the sale of tobacco.

The retailer is provided with what we call a preliminary assessment or penalty assessment, based on our find-

ings. That's given to them in writing on the spot. They have the opportunity, for a 30-day period, to provide any further information. Perhaps the penalty or the assessment was raised for the lack of invoices. We allow a 30-day period for the retailer to provide that information, and we'll adjust the final assessment. The final assessment is subject to the standard objection and appeal process that's under the Tobacco Tax Act.

Mr. Yasir Naqvi: We've talked a lot, Deputy, about the enforcement measures which are going on right now. Are there any proposals or ideas for new regulatory enforcement measures within Ontario to deal with the contraband tobacco issue?

Ms. Carol Layton: There's always scope for more, and there are lots of ideas out there in terms of whether it is more resources that you put into it, whether it is greater tools that you give to inspectors. I think there is great promise, for example, in working with the province of Quebec in terms of addressing contraband there and great promise, actually, in working in particular with the part of the province where I think the lion's share of the contraband tobacco comes through, and that is the area around Cornwall. The work with Peter Deschamps and his team, the fact that they've been involved in at least four different joint efforts with the integrated border enforcement team in the Valleyfield-Cornwall area, is important work. But I think that the solution is not just enforcement. It also has to be education and working with our First Nations leadership in addressing the issues that they see on why there is an involvement of some of their folks in this particular industry.

I think the out-of-the-box thinking is something that we certainly also have to consider, but at the end of the day, always linking it back to Smoke-Free Ontario, the less people smoke, the less you're going to have a problem. If demand goes down, so does supply.

Mr. Yasir Naqvi: What about actions and measures being taken by CRA, for example? Are they bringing some new regimes to strengthen enforcement?

Ms. Carol Layton: Yes. There's one that Terry can speak to, sure.

Mr. Terry Hewak: Actually, there is one particular aspect that the federal government—the CRA, the Canada Revenue Agency—is developing. It's been in the works since about 2005. It's essentially a proposal that rather than the current tear strip—there's a yellow tear strip that goes around cigarettes right now to denote that the taxes have been paid and it's a legal cigarette. What the CRA is proposing or has been working on is a stamping regime that would be very similar to a postage stamp. It would have very specific security features including some overt and some covert security features.

The whole idea of the stamp would certainly help better identify fully tax-paid cigarettes versus illegal, potentially counterfeit cigarettes. They're hoping to get it all in place and possibly start rolling it out sometime next year, but it's still very much at the consultation stage and various options are being developed; and whether the other provinces are willing to participate.

What we're hearing informally is that it probably will be a little more expensive than the yellow tear tape, but it does have certain features that may make it worth looking at a little more closely.

Mr. Yasir Naqvi: What are the concerns with the current tear tape system?

Mr. Terry Hewak: It's subject to counterfeit, among others. But again, counterfeit cigarettes are a very small chunk of the tobacco market right now. It is a little easier to counterfeit and manufacture illegally.

The idea behind the stamp is that the covert security features, much like you'd find on Canadian currency, would make it a little more difficult to replicate and consequently would make it easier for the government to see whether they are legitimate tax-paid cigarettes.

Mr. Yasir Naqvi: So is the Minister of Revenue working with CRA in creating this stamping regime? Are there some obligations on your part to help them—

Mr. Terry Hewak: There have been discussions going on since about 2005, from what I understand. Again, they hope to introduce it sometime in 2010. The discussions are ongoing, but no decisions have been made at this point.

Mr. Yasir Naqvi: Where is industry on all this?

Mr. Terry Hewak: Actually, the early read is basically—and again we haven't formally consulted with them, but on an informal basis, it sounds like there's a little bit of skepticism in terms of the cost because, of course, this is a much more sophisticated stamp and it will cost more than a simple tear tape. There are some concerns in terms of the expense, but the other issue is there seems to be some reluctance about it from the industry because of the earlier issue that counterfeit represents a very small chunk of the market. It won't necessarily deal with contraband coming in across the border in bags or other forms. It won't necessarily put closure on that, and that's very much a porous border issue rather than a tax admin kind of an issue.

Mr. Yasir Naqvi: Okay, thank you. Mr. Chairman, I'm going to ask if any of my colleagues may have a question to ask.

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The Chair (Mr. Norman W. Sterling): Okay. Does anybody—

Mr. Ernie Hardeman: Thank you very much. This is not to criticize; this is just to try and find a solution. I'm going to use a comparator: If we had a single taxpayer in the province who, through an audit, was shortchanging the province half a billion dollars, how long do you suppose it would take us to put something in place to stop that from continuing? I'm just a little concerned as to how I can't get an answer as to where we're going with trying to catch this leakage in the taxation.

Mr. Terry Hewak: Yes. Actually, the whole leakage issue is obviously very, very complicated. We can't confirm the \$500 million because there's no verifiable data, but I think we can all appreciate that there is an issue. The point that I'm trying to get at is, you have to appreciate that we are tax administrators. We certainly

try to administer as efficiently as we can, but to a large extent, the problem here is one of, basically, contraband coming in through the border. The vast majority of it is just coming through from the US side.

Mr. Peter Deschamps: If I could just add to that. My name is Peter Deschamps. I'm director of the special investigations branch. One of the things that we all have to bear in mind is, this isn't a problem that's unique to Ontario. It's a worldwide problem, actually, contraband tobacco. To answer your question specifically, I think we've taken some big steps forward with regard to how we're trying to address the issues, because it's more than one issue. Enforcement isn't the only answer. There are a number of answers, but I think that's one of the things we have to bear in mind.

One of the things we try to do is work with other people as much as we can. That's vital to trying to get a handle on this particular problem.

Mr. Ernie Hardeman: I guess that was my original question when I started back there. If we could do one thing, what would it be? In my mind, it has to be something that would work towards identifying the leakage, then getting the leakage, and—

Mr. Terry Hewak: The leakage is predominantly on the border side. It's very much a federal kind of a—

Mr. Ernie Hardeman: If we're spending all our time designing things that only work on the fringe and you don't close the barn door, by the time you get back with the calf, all the cows are gone. I guess that's why you're here today, to try and explain, and help me and help us understand what we can do to help solve this problem.

Mr. Terry Hewak: That's why we put so much emphasis on working with other jurisdictions. It's a very complicated issue—multiple levels of government, other provinces, multiple enforcement agencies. There are multiple tax administrating jurisdictions, even at the local level, in many cases.

Mr. Ernie Hardeman: If you put it together with the other countries that are having the same problem—as you say, it's a worldwide problem—are other countries having problems with things coming in tax-free? Do they have the same leakage on Canadian product within their borders as we have with their product within our borders?

Mr. Terry Hewak: I can't speak to the source of it, but we have heard that, for example, in the UK, somewhere like a third of all cigarettes are illegal. Brazil is somewhere in that neighbourhood as well, so it's very much like a worldwide kind of—

Mr. Peter Deschamps: I don't think there's a general answer to that particular question. What I would say is, yes, I would think most western countries have a problem with goods being imported that they're not getting the tax on or the excise on or whatever. It's a worldwide problem. It's not just relating to tobacco, it's other things, so the answer to the question is, yes, people are dealing with similar situations.

Some people have problems that are worse than ours and I think we've benefited from their experiences with regard to how they've handled it. Actually, the stamp is a

step in the right direction. I think the federal government spent an awful lot of time talking to a number of jurisdictions, and the stamp, while we haven't made a decision on where we're going with that yet, is probably a step in the right direction.

Mr. Ernie Hardeman: There's a fair bit of media coverage on the fact that our tobacco-growing industry is going to get out of the quota system and they will no longer be self-governing, to say who can grow what and how much they can grow. Is that going to make this problem worse? Who is going to be minding the store on the production side for the legal side of our tobacco tax?

Ms. Carol Layton: Maybe I'll have Richard speak to that one specifically, because he has been talking to some of the folks at ag and food.

Mr. Richard Gruchala: It's part of the federal buy-out package, which I believe was announced back on August 1. There were two requirements in the federal package. One was that the industry become deregulated, so essentially the elimination of the quota system currently in place by the flue-cured tobacco marketing board. The second component essentially was that the province establish a licensing regime. The marketing board, for lack of another term, is in the process of establishing the licensing mechanism that will oversee the remaining participants in the industry: the growers, the producers.

Mr. Ernie Hardeman: If the province decides to license it—it's a legal product, and the only reason it's been controlled thus far is because the farmers themselves decide how much you can grow. When that's not true, then what's the difference between a tobacco plant and a corn plant, and how do you, under our Charter of Rights and Freedoms, say I can't grow a legal product unless I get a licence? The reason I bring this up is not because of the farmers issue, but when you don't control the growth, how are you going to control the product going to the manufacturers, and even how much the manufacturers are buying, for that matter, because there's no control of that?

Mr. Richard Gruchala: One of the stipulations being looked at—it hasn't been finalized at this point in time—is that a producer, as part of a licensing regime, has to have a licensed buyer. So there would be some control within the system itself, because licensed buyers—the major manufacturers and others—would have a vested interest in ensuring that the amount of illicit tobacco grown is minimized. So there would be a bit of a built-in mechanism there. The provision around having a licensed buyer as part of the contract with the producer would be under the auspices of the board. Again, that's not finalized at this point in time, but I understand that's kind of their direction.

Mr. Ernie Hardeman: So you're convinced, from the Ministry of Revenue, that you can design the licensing fee to have the same protection we now have to control production in relation to manufacturing?

Mr. Richard Gruchala: I'm not sure we would say the same control as exists. We're keeping an eye on the

situation, because it hasn't been finalized yet. I think that as we get toward finalization or as the board itself becomes the authority for the licensing regime, we'll see what the final mechanisms are. That's why I said I'd give you a read at this point of what I understand are the points of discussion, but it has not been finalized yet.

Mr. Ernie Hardeman: Okay. Thank you.

The Chair (Mr. Norman W. Sterling): Could I just ask Mr. Deschamps: In terms of staff—your staff deals with all the taxation issues in the Ministry of Revenue—how much of your staff is, let's say, in the tobacco area?

Mr. Peter Deschamps: Two thirds of my branch is actually doing tobacco investigations at the present time and one third is doing everything else. Our biggest issues from a special investigations point of view would be tobacco, retail sales tax, fuel and gas. Those are the biggest four.

The Chair (Mr. Norman W. Sterling): As I see the Ministry of Revenue, there are sort of two enforcement activities: One is retail, we've heard over here, and you are the other end of it. Can you enlighten the committee as to what you have done, for instance, in the last couple of years and what successes you have had and what kind of operations you have success in?

Mr. Peter Deschamps: I'd be pleased to do that. Over the last two years, we've spent a considerable amount of time developing and nurturing partnerships with a number of agencies. I would argue that since 2001, partnerships among a lot of enforcement agencies are the key to success; it's a way to leverage what you do. I think there's now a general understanding among most enforcement agencies that everybody brings something to the table. My people aren't police officers, but we still bring something to the table in an investigation. That has helped us very considerably with regard to our mandate.

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From the point of view of formalizing that, we have worked very hard at developing an intelligence assessment unit that we went outside to get some specialized help on. We've actually got a couple of people from Durham Regional Police—ex-police officers—who are helping us develop that particular function. They are the people who get out there. They're the eyes and ears. They allow us to be more proactive with the types of things that we should be looking at, because at the end of the day it's all about risk.

My branch is more concerned about the distribution chain. The retail inspectors are more interested in the ground-level stuff, the ground-source stuff. So we try to move up in the distribution chain. An average seizure for us is about 1,000 cartons at a time. That's what we're trying to do.

The Chair (Mr. Norman W. Sterling): How many seizures have you had in the last couple of years? Do you know?

Mr. Peter Deschamps: The deputy mentioned that this year we're at about 33 million cigarettes so far and, of course, the year's not up yet. That's opposed to 25 million last year. Over the last three years we've seized,

along with our partners, about 60 million cigarettes. So I think we've made some significant strides. We have some way to go, but we are moving in the right direction, I think. The key to it all has to be working closely with the partners we have.

The Chair (Mr. Norman W. Sterling): When you get information or you suspect a certain distribution, then do you go to the OPP or what is your next step?

Mr. Peter Deschamps: Our relationship with the OPP at the present time is related to routine traffic. If they pull somebody over on a Highway Traffic Act offence or whatever and they notice that there's contraband tobacco, they give us a call and we authorize them to seize the tobacco. We take the tobacco and we take it through court from that point on. We go to court with that, we lay the charges. That's how it works with the OPP.

With the RCMP, depending on the situation, it could be a joint initiative or it could be something we handle ourselves. It could be something that we deal with with the Toronto Police Service. It's not always the RCMP or the OPP. We have a number of partners and, where the situation fits, we try to use those particular partners to leverage our successes.

The Chair (Mr. Norman W. Sterling): So your department would be smaller than the retail department in terms of dealing with tobacco?

Mr. Peter Deschamps: Our branch is the smallest in the Ministry of Revenue.

The Chair (Mr. Norman W. Sterling): Can you tell me how many people are involved with tobacco?

Mr. Peter Deschamps: I don't really like to talk about that. It's one of those things that I think kind of works against us, to talk about how many people we have out in the field. If you're really pressing me for the answer I'll give it to you, but—

The Chair (Mr. Norman W. Sterling): Perhaps you can provide that in a letter to me and we'll share it in camera when we write our report. We'll deal with it at that time.

Mr. Peter Deschamps: Okay. Thank you.

The Chair (Mr. Norman W. Sterling): You mentioned that on an average now you're getting 33 million cigarettes a year.

Mr. Peter Deschamps: I wouldn't say that's the average. That's what it is so far this year. A lot of that this year has been with the support of the OPP on the routine traffic-related stops. A lot of that has to do with partnerships with the RCMP and some of it has been developed from our own initiatives.

The Chair (Mr. Norman W. Sterling): Can you provide us with—perhaps it would take some research on your part if you don't know the answer to this question—how many fines have resulted from your investigations branch over the last three or four years?

Mr. Peter Deschamps: Yes, we can come up with that. We might have it here, actually.

Ms. Carol Layton: I think we do have it here. Peter did talk about 33 million cigarettes seized this year to date and we talked about 25 million the year before. We

went back five years. There have been something like 80 million cigarettes seized. In terms of the actual number of cases that are referred to the legal services branch for prosecution, against that 33-million figure, it's about 175 cases and the number of convictions is 131. There are values on fines, as well.

Likewise, in 2007-08, which was the big year of 25 million cigarettes seized, 130 cases were referred to the legal services branch for prosecution, with convictions in 55 of those. The value of fines imposed by the courts was just over \$2 million.

Mr. Peter Deschamps: What we're finding more and more is that it's not just a question of fines anymore; sometimes it's a question of probation or community service and jail time. That's what we're finding more and more, especially in the last two years.

The Chair (Mr. Norman W. Sterling): I think we'll ask the deputy if she could supply a breakdown on that to the committee.

Do you have questions on this particular matter, Mr. Ouellette?

Mr. Jerry J. Ouellette: Yes. You said 33 million so far this year. Are you talking calendar year or fiscal year?

Mr. Peter Deschamps: Fiscal year.

Mr. Jerry J. Ouellette: Okay, so it ends March 31.

Mr. Peter Deschamps: That's right. Those are cigarettes. There's fine-cut tobacco. I assume everybody knows what fine-cut tobacco is. It's the stuff you roll yourself. We've got 12 million grams of fine-cut tobacco that we've seized this year, and we've seized a large number of cigars this year—78,000 cigars.

The Chair (Mr. Norman W. Sterling): Would you capture any more if you had more resources?

Mr. Peter Deschamps: I don't think there's an enforcement agency around that would say they couldn't do more if they had more resources. The answer to that is yes, we could do more. But I'd like to reiterate what the deputy said: It's not just a question of enforcement; it's a question of a number of strategies to really deal with this.

The Chair (Mr. Norman W. Sterling): I have Mrs. Sandals and Mrs. Van Bommel.

Interjection.

The Chair (Mr. Norman W. Sterling): Yes, I'll come back to you in a few minutes.

Mr. Rosario Marchese: Okay.

Mrs. Liz Sandals: I want to follow up with some of the questions you were asking Mr. Deschamps.

A number of you have referenced the fact that the biggest problem is contraband coming across the border, that that's where the bulk of the untaxed tobacco is coming from and that there needs to be a lot of work with partners in terms of stopping that. For those of us who aren't immigration lawyers or experts on customs as it crosses the border, I wonder if you could sort of walk us through where some of these problems are and who's got jurisdiction along the way. You've referenced partners, but I'm not sure I understand where the actual jurisdiction is in the particular point along the trail.

Let's start off where I understand a lot of the contraband tobacco starts off, on the other side of the border. I understand that a lot of the contraband cigarettes are actually manufactured on a reservation on the other side of the border in a state south of the St. Lawrence. Who's got jurisdiction at the time that what will become contraband cigarettes are being manufactured on reservations on the American side of the border? What sort of law enforcement has it at that point?

Ms. Carol Layton: Maybe you could speak about IBET.

Mr. Peter Deschamps: Yes, sure. If we're speaking about international border points, I think most people would agree that the biggest source of the problem is the area up in Cornwall, so we can speak to that. What generally happens in that area is that there is an IBET team, which the deputy described. Depending on where the IBET is—there are seven around the province of Ontario. There are a number across the country, by the way, but we're only interested in Ontario. There are seven in Ontario, and each border point has a slightly different IBET role. So in Cornwall, obviously cigarettes are a big deal. But there are a number of other things that are a big deal coming through Cornwall—

Mrs. Liz Sandals: I presume drugs and guns.

Mr. Peter Deschamps: Well, drugs, illegal aliens—there are a lot of things coming through Cornwall. The jurisdiction up there is primarily federal. CBSA—Canada Border Services Agency—has an investigations arm and an intelligence function. They have jurisdiction over some of it. Some of it's referred to the RCMP. The RCMP heads up IBET. The protocol is always, with joint operations, the most senior agency has the say, so it's always the RCMP if you're working with the RCMP.

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Mrs. Liz Sandals: So at the point that it's crossing the border, it's RCMP.

Can we back up one step? We talked about plants that are in Ontario, that you have to be licensed to manufacture it. At the point where this is being manufactured on the other side of the border, is that manufacture legal on the other—is it only when it crosses the border that it becomes illegal, or is it actually illegal manufacture on the US side of the border?

Mr. Peter Deschamps: Some of those factories on the American side of the border might be legal from an American point of view; some of them might not be. But tobacco that comes across the border into Canada is illegal, because there's no excise on it and there's no Ontario tobacco tax.

Mrs. Liz Sandals: But nobody is attempting to stop its manufacture on the south side of the border? Is that what I'm hearing you say, that even though it's being manufactured there, there is no attempt on the south side of the border to try to intervene in the manufacture of what's going to become contraband?

Mr. Peter Deschamps: I think the New York state government and the federal authorities in that particular

area are trying to deal with the issue from an American point of view.

I thought I heard somebody say that there has been a recent piece of legislation that has passed in the United States that is going to, perhaps, raise the spectre of contraband in the States. I think that's going to give the American authorities at the borders more incentive to, perhaps, work with Canadian agencies. They are doing that. I don't want to suggest here that they're not working with us; they are working with us. Our concern is when it comes across the Canadian—

Mrs. Liz Sandals: And then that's RCMP jurisdiction.

Mr. Peter Deschamps: Right. What generally happens on that front is that we deal a lot with the RCMP because they deal with excise; they enforce excise legislation from the point of view of prosecution. The special investigations branch deals with prosecution of tobacco tax offences. Sometimes what will happen is that we'll take a case to court and there could be federal charges and there could be provincial charges. Sometimes there will just be Ontario charges; sometimes there will just be federal charges. It depends on the situation.

Mrs. Liz Sandals: Okay. So the federal charges would be criminal charges for smuggling or what?

Mr. Peter Deschamps: Well, it's under the Excise Act. It's not a criminal charge, just like it isn't a criminal charge in Ontario.

Mrs. Liz Sandals: Okay. We obviously have no control over the Criminal Code—that's clearly federal—but what you're saying is that even if it is a federal charge, it isn't a federal criminal charge; it's an excise charge. Here, it's obviously a provincial offence because it's a Tobacco Tax Act charge, so it's clearly not criminal. So in neither case would there be any criminal charges laid—or it would be highly unusual for there to be criminal charged laid. Is that what I hear you say?

Mr. Peter Deschamps: It depends on the situation and the size of the situation. My understanding is that excise doesn't give you a criminal record, just like the Tobacco Tax Act doesn't give you a criminal record. That's why we're considered a quasi-criminal agency.

We're working on an authority right now with the OPP where we'll be able to use the code once again for more serious offences, but they're not just tobacco offences; they could be sales tax offences, too. There are times when it makes sense to go under the code, and the RCMP will do that in some situations, but generally speaking, it's under excise.

Mrs. Liz Sandals: Okay. I presume that if it's not criminal, then there would be nothing to keep this person who's doing the smuggling from continuing to cross the border legally, because they haven't got anything on a criminal record, unless they've got some other criminal involvement that they do get picked up for. But on the tobacco side of things alone, there wouldn't be any criminality involved, so there would be nothing to stop the border crossing.

Mr. Peter Deschamps: Well, no, nothing to stop the border crossing per se, but like I said before, there are jail

penalties in the Tobacco Tax Act. We're trying to seek those more and more. We're actually looking at some further changes that I think will enhance our ability to do something about this. The one thing I'd like to say about the Tobacco Tax Act to everybody is, it's a very strong piece of legislation from the point of view of enforcement. In some ways it's better than the Excise Tax Act.

Mrs. Liz Sandals: So if you can get somebody on a large enough haul, they could conceivably attract jail time.

Mr. Peter Deschamps: That's right.

Mrs. Liz Sandals: Now, I guess the other thing that has been raised sometimes in the media is the spectre of people—you get this thing that sounds sort of like Miami Vice, but it's St. Lawrence Vice, and you've got all these high-speed boats crossing the St. Lawrence. Is a lot of this, then, coming across the river as opposed to coming across conventional road-crossing border points?

Mr. Peter Deschamps: It comes across the river in the summertime and it comes across the ice bridge in the wintertime.

Mrs. Liz Sandals: So that means that you've got the continuous border to police as opposed to just border entry points, in terms of the actual problem.

Mr. Peter Deschamps: Right.

Mrs. Liz Sandals: Okay. So that's one scenario where we know it's on one side and coming across to the other side.

I understand that in some cases, you may have cigarettes being manufactured on-reserve in Ontario, which, if they're manufactured in sufficient quantity and then go off-reserve, again would be a tobacco tax violation. So at the point where that's being manufactured on-reserve in whatever quantity—and maybe it makes a difference what quantity it is—who's got jurisdiction? You're in Ontario, but they're being manufactured not by one of the major tobacco companies; they're being manufactured on-reserve. Who's got jurisdiction then?

Mr. Richard Gruchala: Under the Tobacco Tax Act, the general rule is that the law applies equally across the province, so it's a law of general application. The Tobacco Tax Act would have jurisdiction, as would the federal Excise Tax Act, so both jurisdictions would prevail, so to speak, on-reserve.

We have some jurisdictional issues when it comes to matters relating to seizure and judgments on reserves in general at the provincial level under section 89 of the Indian Act. So we have some limitations that apply to us that would potentially cause us some collections-type issues if we were to pursue collections activities or seizures of certain goods. There would be some issues with that.

Mrs. Liz Sandals: So you would have problems interfering with the manufacture at that point or reducing the manufacture because of the way the Indian Act works.

Mr. Richard Gruchala: Only in cases where it comes to seizures or judgments, potentially. In other words, on matters relating, for example, to tobacco, we believe we

have jurisdiction on tobacco issues, so we could seize tobacco on-reserve. But when it comes to the personal property of a First Nations individual on-reserve, we may have jurisdictional limitations there.

Mrs. Liz Sandals: Okay. So it gets a little bit—

Mr. Richard Gruchala: It gets a little bit dicey.

Mrs. Liz Sandals: Thank you very much. That helps us understand, I think, who's doing what where, or why you need some of the partnerships.

If we've got more time, Mrs. Van Bommel has some questions.

The Chair (Mr. Norman W. Sterling): Mrs. Van Bommel?

Mrs. Maria Van Bommel: I'd like to move to another part of your comments and statement to the committee, the gasoline tax exemptions. You mentioned on-reserve retailers. I think again, it may be a question of jurisdiction, but certainly the process is supposed to be that they use their status card to get an exemption on the taxes. How do you enforce a situation where non-natives use the same gas stations to purchase gas? How do you know that they're paying the taxes that the First Nations people don't need to pay?

Mr. Scott Nixon: The gasoline that's delivered to a reserve-based gasoline retailer is actually tax-paid. The way it should work is that a non-native or non-status Indian should be paying the tax-in price on that gasoline. When a First Nations individual purchases the gasoline on the reserve, they're required to show their Ontario gasoline charge, and the retailer must produce a credit-card-type chit to confirm that information—the amount purchased—and they claim the tax as a refund. Technically, the refund for that lower-priced gasoline should not be made to a non-First Nations individual.

In September 2008, we replaced the preparation of the manual paperwork with an option for electronic submission of the refund claim to reduce the burden on the retailer and make it simpler for us to process and again to review those transactions.

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Mrs. Maria Van Bommel: So the bulk retailer who delivers the gas is actually collecting the taxes and then relaying that to you?

Mr. Scott Nixon: If you think in terms of the way we collect the tax on gasoline, it's pre-collected at the higher level. So when it's brought down to the retail station, the price of the tax is also included in the delivered cost to the retailer. So they must recoup their tax-exempt sales through a refund process.

Mrs. Maria Van Bommel: Another thing I noticed in your comments: You said that from time to time, around diesel in particular, your emphasis tends to shift based on compliance and price and that sort of thing. At this point you say you've moved more toward checking on coloured fuel, on coloured diesel. Who is actually allowed to use coloured diesel? I know agriculture is, but are there other entities that are allowed to use coloured diesel?

Mr. Richard Gruchala: Essentially off-road, unlicensed vehicles, so in production facilities, farming, for

example, fishing, those sorts of things. So it's essentially in production.

Mrs. Maria Van Bommel: Okay, so fishermen can also use coloured diesel in the engines of the boats?

Mr. Richard Gruchala: I believe so, yes.

Mrs. Maria Van Bommel: Okay. I'm familiar with the dipping of tanks in order to verify whether the person can legally use the coloured diesel or not, but what happens if you find a vehicle, say a farm pickup truck, that is using coloured diesel? What do your inspectors do? What is the process once someone has been discovered using coloured diesel when they're not supposed to?

Mr. Scott Nixon: Just as you said, we do a dip sample into the tank. We actually take more than one sample to preserve one in case it's needed in court. If it's found to be coloured fuel, there is a provincial offences ticket issued for the offence. If it would appear that the individual is operating a business, we will look at the use of the fuel over a period of time. If it cannot be proven that tax-paid fuel has been used in the licensed vehicle, we will raise a tax assessment for the amount of consumption. We estimate the consumption based on the mileage of the vehicle and the length of the vehicle ownership. So there's a provincial charge plus a potential tax assessment.

Mrs. Maria Van Bommel: So the provincial charge has a fine attached to it?

Mr. Scott Nixon: It has a set fee and it's collected through the court system.

Mrs. Maria Van Bommel: So what is that? I guess I'm asking, is it enough of a deterrent? That's a terrible thing for any farmer to ask, but I'm from a perspective of those farmers who do work within the law and pay for regular diesel for their trucks and then use coloured diesel in their tractors, as they're supposed to, as opposed to those who slip coloured diesel into the other vehicles.

Mr. Scott Nixon: The fixed fine is \$430, plus a mandatory victim surcharge of \$75.

Mrs. Maria Van Bommel: Do you seize the vehicle at all?

Mr. Scott Nixon: Not for that offence.

Mrs. Maria Van Bommel: Is there ever an occasion when you would seize a vehicle for using coloured diesel if they weren't supposed to be?

Mr. Scott Nixon: Not in the nature of our program, no.

Mrs. Maria Van Bommel: Thank you very much.

The Chair (Mr. Norman W. Sterling): Mr. Marchese, do you have some questions?

Mr. Rosario Marchese: Yes. I just want to follow up on some of Maria's questions.

With respect to the gasoline tax exemptions, you've introduced the electronic service, you say, but they don't all use that. Is that correct?

Ms. Carol Layton: That's right. It's a voluntary service right now.

Mr. Rosario Marchese: Why is it voluntary, again?

Ms. Carol Layton: This service came into effect in September 2008, after at least four, if not more, years of

extensive consultation with various First Nations leaders and very much developed in consultation with them, in terms of what they want. For them, a system that was voluntary, flexible, fair and transparent is what they asked for, and even in a meeting I had with the Chiefs of Ontario last week, they confirmed again that voluntary is their preference.

Mr. Rosario Marchese: How many are using it? Do we know?

Ms. Carol Layton: Right now, I think there are about four signed up and using it, and there are another almost two dozen that are in the process of going towards it.

Mr. Rosario Marchese: Would you say this is working well?

Ms. Carol Layton: I think it is working well, in particular for the actual gasoline retailer on reserve, given that for those who do go on the electronic system—and one would hope that they will see the benefit of it, that they would—getting your refunds back in days as opposed to weeks and weeks is a pretty compelling proposition, I would think, for them.

Mr. Rosario Marchese: With respect to the field inspectors, the gasoline and diesel inspections, you do this at random, but it's not done frequently, as far as I understand it.

Mr. Scott Nixon: Again, we have a limited number of fuel inspectors, and we tend to look at the various areas of risk.

Mr. Rosario Marchese: Right. And how is that risk?

Mr. Scott Nixon: Well, the risk could be in certain areas where there's potential for vehicles that should be used in a forestry type operation or in a farming operation being taken off and driven on licensed roads. We'll look at those types of things.

We also do joint blitz work in conjunction with the OPP and the Ministry of Transportation on the 401 series of highways, when vehicles are being stopped for safety.

Mr. Rosario Marchese: Let me ask you: The Auditor General mentioned a number of things in his report, in terms of what it is that you should be doing, and there are three: assess the risk, develop an inspection strategy that is tailored to the risks identified, and assess the results of improving its enforcements. What was the answer to those recommendations made by the auditor?

Mr. Scott Nixon: Generally, we agree with the auditor completely. We have to look at the change in—as prices fluctuate for fuel, there will be a great intensity perhaps to try to use coloured fuel, to save the cost of the tax in the operation. We'll use that, and we'll look at the potential areas where it could. In some areas, it's also a seasonal factor that changes the risk.

Mr. Rosario Marchese: You are already using the coloured fuel checks of vehicles.

Mr. Scott Nixon: Correct.

Mr. Rosario Marchese: How is it working?

Mr. Scott Nixon: Again, it changes a little bit with the volatility of the price. As the price of the fuel goes up, we will see a higher number of inspections will result in charges from use of coloured fuel.

Mr. Rosario Marchese: Can I ask you, the \$430 fee—Marie was asking, I think—is that a deterrent? It doesn't seem like a deterrent, does it?

Mr. Scott Nixon: There are other things that can be done. If we find that it's a commercial-type operation, we will actually go back to the place of operation, and if there's a fleet of 50 vehicles, we will look for the tax-paid, non-coloured fuel for proof of purchase, to show that that has been what they've been running in their operating tanks. It would be a fairly significant assessment on top of the straight provincial offences fine.

Mr. Rosario Marchese: And has that happened?

Mr. Scott Nixon: Oh, yes, that's a regular occurrence.

Mr. Rosario Marchese: Frequently? Sometimes?

Mr. Scott Nixon: When we talk about some of the amounts assessed under the Fuel Tax Act, that does happen relatively frequently.

Mr. Rosario Marchese: Okay.

Mr. Peter Deschamps: Can I just add to that?

Mr. Rosario Marchese: Yes, sure.

Mr. Peter Deschamps: The other thing, too—I believe the protocol is that after three tickets, the matter is referred to the special investigations branch, and then we pursue it through court. We've had a couple of gas tax cases before the court. There is a mechanism, if it looks like it's significant non-compliance.

Mr. Rosario Marchese: Okay. Deputy, you talked about Quebec and their dealings with contraband. You said they're doing a good job. You didn't say much about what they're doing in Quebec.

Ms. Carol Layton: The key thing I said is that I speak on a fairly regular basis with my colleague. There are some things that are a little bit different. For example, Quebec largely doesn't have any growers of raw tobacco; Ontario does, although we do have the buyout program. It's interesting that we have that difference, and yet we do have a similar level of contraband problem. So that's kind of an interesting thing.

The other point, too, on Quebec is that because of that one particular area that Mrs. Sandals spoke about, in the Cornwall area, there are five jurisdictions involved. We have New York state, Ontario and Quebec, as well as the Canadian government and the federal US government. Certainly, talking to them and working with them on a working-level basis around how we can work to address the contraband problem is another one that we have agreed to work on.

Mr. Rosario Marchese: I see. I misunderstood. I thought you said that Quebec is doing something great by way of dealing with contraband. I misunderstood. Is that correct?

Ms. Carol Layton: I don't think I said that.

Mr. Rosario Marchese: Okay.

Ms. Carol Layton: But they do—we could probably provide some information on Quebec's approach. It generally is comparable to ours, and in fact a lot of the work of the integrated teams is also with the Quebec police forces.

Mr. Rosario Marchese: Okay, thank you.

The Chair (Mr. Norman W. Sterling): Can I just ask Mr. Deschamps about the procedure when you join with the OPP and there's an interception of cigarettes on the road? It's my understanding that the OPP can't take custody of the cigarettes, so they have to call one of your people, which could take a period of time, depending on the availability of your people, to go to the site and take control of the cigarettes. So you have an OPP officer maybe tied up for a couple of hours—I don't know what the distribution of your staff is over the province, where they're located etc. Why is this necessary? Why couldn't the OPP just take control of the cigarettes, as they would for stolen property, let's say? Why is your involvement necessary at that stage?

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Mr. Peter Deschamps: The OPP doesn't have the legislative authority to seize the tobacco at this particular point in time. That's something that's being looked at, but at the present point in time, they don't have the authority. We have to authorize them to seize the tobacco on our behalf.

Mr. Rosario Marchese: And who's looking at that?

Mr. Peter Deschamps: It's being looked at—

Mr. Rosario Marchese: By which ministry?

Mr. Peter Deschamps: Us. It's one of the recommendations—

The Chair (Mr. Norman W. Sterling): Why wouldn't you change that? Are there downsides to it?

Mr. Peter Deschamps: Let me just explain the whole situation with the partnership with the OPP. It's only been in the last two years that we've really had a serious relationship with the OPP down in that particular area of the province. They do participate in IBET. IBET is kind of an apples-and-oranges issue compared to traffic; IBET is something different. The partnership has been very successful. We're looking at ways to make that partnership more responsive. We'd be the first to say that there could be improvements made to it where they have a bigger role down in that particular part of the province. We're looking at those options.

The Chair (Mr. Norman W. Sterling): I don't understand. What harm could come if you just gave them the power to hold the cigarettes until the next day or 36 hours, or whatever?

Mr. Peter Deschamps: That's what does happen at the present time. What will happen is, if they pull somebody over on a routine traffic stop, they'll give us a call and we'll authorize them to seize the tobacco. Our commitment is that we'll go down within the day or a couple of days to pick up the tobacco. We bring the tobacco back, we lay the charges and we take it to court. That's what the arrangement is at the present time.

The Chair (Mr. Norman W. Sterling): Why do they need your permission?

Mr. Peter Deschamps: They don't have the authority to seize the tobacco under the legislation.

The Chair (Mr. Norman W. Sterling): What act is that? Perhaps you could provide me with the act and

section that needs to be amended so that the committee could consider that.

Mr. Peter Deschamps: Sure.

The Chair (Mr. Norman W. Sterling): Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much. I just have a couple of questions. The lawsuit that was recently won I guess goes some way to getting a little bit of that slippage in our taxation system. But my understanding was that that was our product leaving the country, getting cigarettes made and coming back without paying the tax. Was that the essence of the lawsuit?

Mr. Peter Deschamps: Generally, that was the situation, where the cigarettes were manufactured here, exported and then reimported. It's not comparable to the current situation. It's kind of an apples-and-oranges situation, but that's the gist of what those folks pled guilty to.

Mr. Ernie Hardeman: Just another quick question about the answer on the coloured fuel and where you could use the coloured fuel. I thought I heard you say that you could use coloured fuel in off-road vehicles?

Mr. Richard Gruchala: Off-road, essentially.

Mr. Ernie Hardeman: The quad-runners don't have to pay fuel tax?

Mr. Richard Gruchala: They don't require a licence—I believe they do. You said the quad-runners? I believe they do require a licence, so they would not qualify. It's unlicensed equipment off—

Mr. Ernie Hardeman: My lawn mower—I could put coloured fuel in it?

Mr. Richard Gruchala: Sorry. Most of them run on gasoline, not diesel, as I understand it.

Mr. Ernie Hardeman: Mine are both diesel.

Ms. Carol Layton: I was just going to say that we have an actual bulletin that provides all the detail about who can and cannot use the coloured fuel, so with the five things I have noted we owe this committee so far, we could add that as number six.

Mr. Ernie Hardeman: The reason I asked is because I was in that position once. I had a farm-related business and I couldn't use coloured fuel, but I got the tax back on that which I used for farm processing. But the interesting part was, I was told then that the tax was payable on all fuel, unless it was used for the purpose that was exempt. So if I was putting it in the tank, I couldn't claim the tax rebate for what overflowed. Spilled gas pays tax too. I was surprised to hear that recreational vehicles and so forth could use coloured fuel because they don't have a licence.

Ms. Carol Layton: I don't think that's the case. Recreational vehicles are not allowed. They have to pay the tax.

Mr. Ernie Hardeman: They have to pay the tax?

Ms. Carol Layton: Yes, they have to pay the tax.

Mr. Ernie Hardeman: They can't use coloured fuel, then?

Ms. Carol Layton: No. We can provide a bulletin that lists all that.

Mr. Ernie Hardeman: I'm going to quit while I'm ahead.

Ms. Carol Layton: We're going to follow you home.

The Chair (Mr. Norman W. Sterling): You're learning too much, Ernie.

Go ahead, Mr. Ouellette.

Mr. Jerry J. Ouellette: I have a series of questions on alternative fuels—propane and natural gas.

When I look at some of the information, in 2001 the revenues collected from propane fuel were \$10 million, and in 2007-08 they went down to \$3 million. Do you know any reasons or potential reasons why?

Mr. Richard Gruchala: We're just checking on that. Fleet vehicles the likes of taxicabs and things have diminished over a number of years. Back in around 2001 there was greater usage of propane in those sorts of vehicles.

Mr. Jerry J. Ouellette: My understanding was that when a new fuel like natural gas came online to be used as a vehicle propellant, it was tax-exempt for the first five years. Is it basically the case that there's no tax on that at that time, and the same for propane when it was first initiated to become—

Mr. Richard Gruchala: There's still no tax on that.

Mr. Jerry J. Ouellette: Still no tax on natural gas? That's been in place for quite a few years. Why isn't natural gas taxed as a fuel?

Mr. Richard Gruchala: Essentially a policy decision around that.

Mr. Jerry J. Ouellette: Is there some written policy we can get a copy of, so that we'd be able to see what the determining factor is for that?

Mr. Richard Gruchala: We'd have to check.

Mr. Jerry J. Ouellette: Some other things: When you're doing your inspections for fuels, what is it that you actually check for in gasoline? What is the definition of gasoline? Is mmt taxed? Are MTBE, ethanol and the other components that effectively fall into place there?

Mr. Scott Nixon: You're right. As raw crude oil is refined, it breaks down into different products. Gasoline is a taxable product, mostly used in automobiles. There are versions of gasoline that become aviation fuel and things like that. Diesel fuel is basically clear until it has a red dye in it to colour it for tax-exempt use.

Mr. Jerry J. Ouellette: What is a determining factor as to what is gasoline and what is not? My understanding is that there are fuels currently sold on the shelf at Canadian Tire that only pay PST and GST but are fuel tax exempt, but if that same fuel is sold at the pump, it becomes fuel taxable.

Interjection.

Mr. Rosario Marchese: He can come up and speak if he wants.

Ms. Carol Layton: He has a bad cold.

Mr. Jerry J. Ouellette: So do I.

Ms. Carol Layton: We're keeping him away from us.

Mr. Scott Nixon: Just a few things to clarify: When ethanol is mixed with gasoline, it becomes part of the taxable product, and so it is taxable. Propane sold at

Canadian Tire for your barbecue tank is not taxable. It's taxable when it's used in a motor vehicle. So there are different tax points as well to be taken into consideration. Other than that, gasoline itself, dispensed from the pump, is a taxable product.

Mr. Jerry J. Ouellette: Yes, but there are additives that are sold at Canadian Tire that are strictly added to the gasoline component of gas that are not fuel taxable. However, if that same product were to be sold at the pump level—I know this for a fact, because I'm dealing with an individual who is in this situation right now. He would like to sell his product at the pump, but he has no guarantee whether it will be taxed the same as when he sells it on the shelf.

Mr. Scott Nixon: Right. In a simple matter, it's hard for us to determine, at the point it's from the shelf, what the ultimate end use will be, because the taxable component comes into existence when it's used in a motor vehicle. If it's not used in a motor vehicle, it could still remain tax-exempt. That additive, whether it's a performance additive sold on the shelf—administratively it's very hard for us to determine. I suppose you could say we could look at the overall tax status of that, but I would say that the amount of product sold is probably minimal.

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Mr. Jerry J. Ouellette: As presented to myself, there appears to be an inconsistency. Natural gas, as you've stated, is not taxed and alternative fuels that are trying to come online are trying to get similar positions. The Ministry of Finance, whose meeting I was at, stated there is no written policy, that there is basically a five-year unwritten rule for non-taxation to gain some footage in the industry in the province of Ontario, but nobody will come forward and put it in print. That's why I've asked for a copy of the determining factor whereby natural gas is now exempt.

Those are pretty much my questions for now.

The Chair (Mr. Norman W. Sterling): Mrs. Albanese?

Mrs. Laura Albanese: I wanted to go back to the OPP not being authorized to seize the cigarettes, and I guess I wanted to have some clarification about what is provincial jurisdiction and what is federal. You indicated that the ministry is looking at this, so I would imagine it would be provincial legislation. I guess my question is, if you have a truck or a vehicle with illegal cigarettes, would they be charged by the OPP for possession of illegal cigarettes in Ontario, would they be charged for contraband of an illegal product by the RCMP or would they be charged just on the basis that no tax has been paid on this product?

Mr. Peter Deschamps: The charge from a tobacco tax point of view is basically a possession charge. So if they pull somebody over on a Highway Traffic Act type offence or whatever—you're talking about a truck, so it would likely be a Highway Traffic Act offence—and they determine that there is tobacco there, the charge would be under the Tobacco Tax Act generally. We would want to lay charges on that.

Having said that, from time to time, they might not phone us; they might phone the RCMP. If they phone the RCMP, then the RCMP will want to lay excise charges. There's a pretty good chance we'd still want to lay tobacco tax charges, but it could be a combination of both.

Mrs. Laura Albanese: They fall under the RCMP in which cases?

Mr. Peter Deschamps: As long as the tobacco is illegal from a federal point of view, where it's not stamped, that's generally the offence. Then the OPP, if they're pulling somebody over on the side of the road, depending on where it is in the province, might phone the local RCMP detachment, and the RCMP would come and seize the vehicle and take it to their lock-up, do the kinds of things that we would do with regard to laying charges, but under the excise act.

Mrs. Laura Albanese: Does it happen often that the OPP would, for example, get in contact with the RCMP and there would be a double charge, as an example of working co-operatively and working together between different partners?

Mr. Peter Deschamps: It does happen, yes.

Mr. Rosario Marchese: But not always.

Mr. Peter Deschamps: Not always.

Mrs. Laura Albanese: You said this is a possession charge. So if you're caught with an illegal drug substance, you have a possession charge and you have a trafficking charge. Am I understanding correctly that no matter how big the load you might have in your vehicle, it's still only a possession charge?

Mr. Peter Deschamps: I'm only speaking for tobacco.

Mrs. Laura Albanese: Yes, tobacco.

Mr. Peter Deschamps: From the point of view of tobacco, the offence from an Ontario perspective is generally possession of unmarked tobacco. The OPP might have a charge under the Highway Traffic Act; they can pursue that. Or they might have a drug offence under the Criminal Code that they might pursue. But from a tobacco tax point of view, it would be possession of unmarked tobacco. So there could be multiple charges on that one pull-over or somebody on the side of the road. Just because they found tobacco doesn't preclude them from charging them under another statute.

Mrs. Laura Albanese: I'm just wondering if there is a chain effect, and also the quantity is—

Mr. Rosario Marchese: The degree of the fine based on the amount?

Mrs. Laura Albanese: Yes, the degree of fine based on the quantity. So whether it's one pack of cigarettes or thousands of them—

Mr. Rosario Marchese: It's just one fine.

Mrs. Laura Albanese: That's one fine.

Mr. Peter Deschamps: Yes, from a tobacco point of view, it's one fine.

Mrs. Laura Albanese: Thank you.

Mr. Peter Deschamps: Like I said, up until now this year, we've got 10 jail terms, 19 probations and 12 com-

munity service convictions, sometimes along with fines. It's not an all-or-nothing thing. You have to remember that what we deal with is at the discretion of the court. So even if a charge is piggybacked with a provincial charge and a federal charge under tobacco, they have to go through the court. It's at the discretion of the court what the fines are.

Mrs. Laura Albanese: Thank you very much.

Ms. Carol Layton: If I could just add one thing: At the end of the day, the Ministry of Revenue is a tax administration ministry. I just want to make the comment about the role that's played by the OPP, the RCMP and the Canada Border Services Agency. There was a study, the Contraband Tobacco Enforcement Strategy, put out by the RCMP in 2008, and they identified that there are about 105 criminal groups working across the country, about a third of them very violent. I guess the point I want to make is that we respect our role as tax administrators and certainly respect the role of the OPP and the RCMP, who are better equipped to deal with the element of folks they could encounter as they are pulling a vehicle over or whatever is happening.

Mrs. Laura Albanese: I appreciate that. I was just trying to better understand the way it works. Thank you very much for the answer and for your clarification.

Mr. Peter Deschamps: Safety is always number one with our staff. That's our policy. Safety is number one.

Mr. Ernie Hardeman: I may be wrong, but what I hear you saying is that an OPP officer could not stop a vehicle because he thinks there are illegal cigarettes in it; it has to be for a different purpose before they can stop them. They can stop a vehicle and say, "Oh my gosh, why have you got all of those cartons of cigarettes in your trunk? They don't look legal." But if they just see the back end of the car down—"I wonder what they have in the trunk"—and stopped them, can they legally enforce smuggling of cigarettes under criminal law, or can only you do that?

Mr. Peter Deschamps: At the present time, if they are pulling somebody over, there's a likelihood that they're pulling them over for something other than tobacco. Once they pull them over for a Highway Traffic Act offence or a RIDE program or whatever and see tobacco, then they either phone us or phone the RCMP.

Mr. Ernie Hardeman: If they pull me over, the first thing I'm going to do is ask why they pulled me over. In all likelihood it's going to be, "You were going too fast," or, "We saw you weaving on the road; we thought there might be some alcohol involved." Is there any way that the OPP could justify, in front of a judge, that they pulled someone over because they saw they were smoking and thought they might have illegal cigarettes? Because at that point that wasn't an offence.

Mr. Peter Deschamps: The short answer would be no, in my opinion.

Mr. Ernie Hardeman: If that's true, and I'm looking for solutions, not problems, should the tobacco act—I've heard it mentioned a couple of times that it's a good act and it's got teeth, but we're having a lot of problems with

it not doing anything. Would it be helpful if it was under the Provincial Offences Act, so the OPP would do the enforcement instead of the Ministry of Revenue?

Mr. Peter Deschamps: That's a policy decision that somebody has to make. I really don't have an opinion on that.

Mr. Ernie Hardeman: From where you are, though—maybe we should ask the deputy—would that be part of the solution? We said there are many things that need to be done but that our law enforcement officers have greater clout in enforcing the law.

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Ms. Carol Layton: Just a few things: First of all, we can't direct the affairs of the OPP. A minister can't, a deputy minister can't, a ministry can't, nor can Peter and his entourage.

The OPP has to determine where it puts its resources based on the intelligence that it has out there and therefore the risk that's out there. That's what they do, but because we do have the partnership opportunities where they do focus on areas that could be seen as higher risk, like drug running or whatever it is, that's how, then, we get pulled in, because of, in a sense, a consequential determination that's made when they do that. But directing the affairs of the OPP would be something that certainly is not within our mandate.

The Chair (Mr. Norman W. Sterling): Can I ask this: In terms of the prosecutions that you have made, have all of them resulted from random checks by the OPP or are there other kinds of charges that you have made as a result of other activity?

Mr. Peter Deschamps: They're not all OPP-related referrals; put it that way. More and more, that's the way it's working out. We're spending a lot of resources on that particular partnership, and more and more it's becoming that way. That's why we're looking for broadening the partnership to make it more productive for everybody. It's one of those things that needs to be looked at.

The Chair (Mr. Norman W. Sterling): In terms of this partnership with the OPP, your part of the partnership is taking control of the cigarettes, laying the charge and going to court. That would be your part of the puzzle. So perhaps when you provide us with the statistics on it you could provide us with how much is OPP-related and how much is other.

Mr. Peter Deschamps: Sure.

Mr. Yasir Naqvi: We talked a bit about ONT-TAXS and the process around that. Deputy, perhaps you can explain to the committee what is ONT-TAXS, what kind of features there are, and then I have some subsequent questions.

Ms. Carol Layton: I'll start off, and I'll look to Scott as well, because I certainly, as a relative newcomer to the ministry, am very proud of that initiative but know that Scott has a much more intimate feel for it.

It is an initiative that was under this larger modernization initiative, modernizing Ontario's systems for tax administration, called MOST. It is to move to a single tax system across all the different statutes that the province

administers—and there's something like 22 of them—and allow us to improve the functionality of it so that we can put in there much better processes; moving from manual processes in many ways, either through the information that is imaged in or comes in online, because it's going to have online functionality, as well as four years of account history, as well as the ability for our business clients to update their information and also have some third party delegation. So there are a lot of different features there that make this thing up.

Also, it would allow the taxpayer, the company or the business, to be identified by a single business number which is the same as the CRA single business number. When you think about it right now, a company out there might be dealing with many different ministries, different levels of government and have a different identifier with all of that, so just working with one identifier alone is going to be a significant achievement as well. The retail sales tax was first to come on, the employer health tax is now on, and then moving to what we're focusing on right now, which is the gas, the diesel, the fuel and the tobacco tax, and then there are nine or 10 other tax programs to come on to it. It will allow us, from an efficiency point of view, to eliminate 65 legacy systems over time and allow us to have one nimble system that, because of the contract we have with the vendor, will be updated all the time. So it's not going to become a system that's obsolete two or three years later when a better one comes along; it's always going to be refreshed and upgraded. In fact, as part of the contract, the actual vendor keeps back two staff who become part of our on-site expertise to make sure that we have the system always operating in an effective way, no downtime, as well as always being improved.

Scott, from a practical point of view, do you want to—

Mr. Scott Nixon: Just in addition, it offers the ministry some administrative savings. We're looking at eliminating a number of multiple registrations. We're registering the taxpayer once and then setting them up with multiple tax clients. That's a simple reduction in the number of accounts we have to maintain on an ongoing basis. In addition, it gives us the opportunity to look at the taxpayer as one entity. So if there's a credit in one tax account and an amount outstanding in another, we have the ability to offset that very quickly and efficiently. As we say, we're modernizing the system, just bringing it up to date. We have not had the ability to make electronic payments. We have not had the ability to file returns electronically before on taxes. So that is coming forward. Along with that, it increases the ability to image documents rather than have them data-entered or key-punched—just simple efficiencies in the future. Once that data is in an analysis area of the system, we have the ability to look at the data that we've received and do a better job of assessing the tax for that return, or, as the Auditor General has suggested, we need to do more matching of the tax-exempt movement between tax accounts. That's very difficult to do on our old archaic systems where they're very much stand-alone and single-account-based.

Ms. Carol Layton: If I could just add, Yasir, that British Columbia and Manitoba both have that system already. There are 16 US states that have it as well and one very small country, and that's Trinidad and Tobago.

Mr. Yasir Naqvi: You talked about the efficiencies or savings for the ministry. What kind of savings are we talking about for businesses on tax?

Mr. Scott Nixon: Generally, we're looking at a number of changes. Just simply dealing with the ministry as one point of contact for all tax statutes will be beneficial. They're not going to have to keep track of multiple tax account numbers, multiple statements, things like that—just more efficient dealings with us. The concept of making electronic payments could be time-saving, and being able to file returns electronically can be done 24 hours a day, so we're not restricted to banking hours or ministry hours—general efficiencies for the business community.

Ms. Carol Layton: We actually didn't quantify that. We did take the time to quantify certainly the value of the single corporate tax, the harmonization of the provincial and the federal corporate tax, and that's where we identified \$100 million in compliance savings and \$90 million from having a harmonized corporate income tax base, but I don't think with ONT-TAXS we actually were able to—

Mr. Scott Nixon: Not to quantify the time, because it's hard to quantify someone who's doing their paperwork after hours or in between clients. But as part of our implementation process, we have consulted with over 300 clients in 28 different sessions just to get their feedback on the types of systems that we're designing and what features they were looking for and how we could meet their needs—from linking simple things to tax bulletins, making it easier for them to find out the information they need when they need it.

Mr. Yasir Naqvi: So what kind of uptake has there been thus far from the business community for the ONT-TAXS system?

Ms. Carol Layton: Every day we're seeing increases in that. It's huge on the RST. I'd have to get back to you, Yasir, on the exact numbers on that because daily we're getting more and more. Last week at the Tax Executives Institute they had something called "provincial day," and the project manager for ONT-TAXS had many, many companies and accounting firms handing her their business cards. They are starting to register, so it is a growing number each and every day.

Mr. Yasir Naqvi: When we're talking about enforcement in terms of tobacco tax and gas tax, how does ONT-TAXS help the ministry on the enforcement side of things as being discussed by the Auditor General in this report?

Mr. Scott Nixon: For specific enforcement, if we look at the things like our tobacco retail inspection or our fuel inspectors, it's a little bit of assistance there. It's a more efficient processing of the account, the ability to make the payments electronically. When we look at the larger scale of the system, when we talk about the potential audit functions, the amount of data that comes in with

some of the taxpayers that collect tobacco, fuel and gasoline tax for us, which we call our “collectors” or “wholesalers,” they’re filing a significant amount of information on schedules with their return. We’re looking at having that information either imaged or data-captured in an area where we can do more proactive analysis on that data. It will help us in that area, more for audit and administrative enforcement rather than on-the-street inspection.

Mr. Yasir Naqvi: Great. Thank you.

The Chair (Mr. Norman W. Sterling): Thank you very much. Did you say that the three jurisdictions that were using the same software were Alberta, BC, and Trinidad and Tobago?

Ms. Carol Layton: Actually, no. There are 16 US states, and I could list them all if you wanted. What I said was, British Columbia and Manitoba. I did say Trinidad, but there are also 16 US states, and I’d be happy to read them into Hansard if you wanted me to.

The Chair (Mr. Norman W. Sterling): No. I was just wondering if the committee wanted to go down and have a look at that.

Ms. Carol Layton: I see.

Mr. Yasir Naqvi: Are substitute members included in that?

Ms. Carol Layton: If I could add, though, Vietnam is actually studying Ontario and have come over and we’ve had some staff over there, so they’re going to be, in a sense, almost mentored by us as they introduce it.

The Chair (Mr. Norman W. Sterling): Perhaps you could provide in writing the various other jurisdictions that are using this.

Ms. Carol Layton: I’d be happy to do that.

The Chair (Mr. Norman W. Sterling): Ms. Sandals?

Mrs. Liz Sandals: Yes. I’m looking at the section in the auditor’s report called “Gasoline Tax Exemptions,” which leads to recommendation 8. In the auditor’s report, he talks about First Nations people, I presume, having certificates of exemption, and then he comments that it would appear that many of those certificates may be somewhat out of date or not too much tracked.

In the ministry response, it goes on to talk about Indian and Northern Affairs Canada modernizing the status Indian identification card. I’m presuming that what you’re saying is that when that card is in some way changed, you could use that instead of a certificate of exemption. I wonder if you could just briefly explain to us (a) what the feds are doing, and then (b) how you would use it.

Mr. Scott Nixon: The gasoline exemption program for First Nations individuals has been in place for a number of years. If you can imagine how technology has changed, we started with a simple plastic card with an embossed number. We’ve moved now to a card that has an electronic swipe mechanism on it. It is still an Ontario-based card.

What the federal government is doing through Indian and Northern Affairs Canada is looking at the current individual status card and looking at electronic components being added to that card—either a chip or a stripe. We’ll be continuing to monitor their progress on that front because there is the possibility of using that card. There is a very strong reason for using that card, because the First Nations individual is very unlikely to lend it or let it out of their possession. So it has its advantages if we can move towards that card in the future.

Mrs. Liz Sandals: Okay. So it would be a more secure form of identification and therefore a more secure form of determining the exemption. Thank you. That’s helpful.

The Chair (Mr. Norman W. Sterling): I don’t think there are any further questions by committee members. I’d just ask committee members to hang back, and we’ll talk to our research staff regarding suggestions with regard to the report.

I’d like to thank all of you for being here. Enjoy your visit to Trinidad.

Ms. Carol Layton: I’m not going to Trinidad.

Interjection: I do the audit.

The committee continued in closed session at 1443.

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