# *The Proposed Canada Customs and Revenue Agency*

Colin Campbell and Maureen Y. Berry*

**PRÉCIS**

Le projet de loi C-43 visant à transformer Revenu Canada en Agence des douanes et du revenu du Canada a été déposé à la Chambre des communes le 4 juin 1998. Les auteurs analysent l'organisme projeté à la lumière de leur précédente thèse où ils avançaient que l'administration fiscale fédérale devrait être davantage dépolitisée. En effet, d'après eux, une initiative en ce sens accroîtrait la confiance du public à l'égard de l'administration de l'impôt, en plus d'intensifier l'intégration et la collaboration entre le gouvernement fédéral et les provinces dans ce domaine.

Compte tenu du rôle que continuerait de jouer le ministre du Revenu national relativement à l'Agence des douanes et du revenu du Canada, ainsi que de l'importance accordée aux « comptes » qu'il devrait rendre par rapport à l'organisme sur le plan politique, les auteurs concluent que le gouvernement a sciemment refusé d'accroître le niveau de dépolitisation officielle et que l'objectif premier du projet est d'améliorer la souplesse et l'efficacité de l'administration grâce à une structure différente de celle des ministères. Si l'agence ne dispose pas d'une plus grande autonomie, le projet n'incitera vraisemblablement pas les provinces à intégrer à l'échelon national l'administration de leurs impôts en faisant appel à l'organisme.

**ABSTRACT**

Proposed legislation to convert Revenue Canada into the Canada Customs and Revenue Agency was introduced in Parliament as Bill C-43 on June 4, 1998. The authors analyze the agency proposal in the light of their earlier argument that federal tax administration should be more depoliticized both to increase public confidence in tax administration and to facilitate greater federal-provincial integration and cooperation in tax administration.

Because of the continuing role of the minister of national revenue that is proposed with respect to the agency and the stress laid on the political

* Both of Davies Ward & Beck, Toronto. Dr. Campbell is adjunct professor in political science, University of Guelph.

"accountability" of the minister for the agency, the authors conclude that the government consciously rejected a greater degree of formal depoliticization and that the agency proposal is driven primarily by a desire to achieve increased administrative flexibility and efficiency by moving away from a traditional departmental structure. Without more independence for the agency, the proposal itself is unlikely to significantly increase the willingness of the provinces to integrate the administration of their taxes on a national basis by using the agency.

## INTRODUCTION

On June 4, 1998, the federal government introduced legislation to create the Canada Customs and Revenue Agency ("the agency").[1] In January 1998, a "legislative framework" for the agency and a study of possible cost savings to be realized from the integration of revenue collection were released.[2] In a previous article,[3] we argued that a more formally depoliticized national revenue authority was desirable in Canada, both to dispel any appearance of political involvement in tax administration[4] and to facilitate greater federal-provincial cooperation in tax management. In this article, we have evaluated the agency proposal in the light of that criterion and concluded that the objective of more formal depoliticization appears to have been consciously rejected in the interests of "accountability," a term that recurs frequently in the explanatory materials. The agency proposal in fact seems to be driven primarily by a desire to achieve greater operational efficiency and flexibility than can be attained under the current departmental structure, a different objective that does appear likely to be realized.

Before describing the agency proposal, we will review briefly the Australasian and British models of tax administration, which are more consciously depoliticized. We will then examine the agency proposal in some detail, in particular focusing on the continued role of the minister of national revenue and the "accountability" issue and discussing some of the possible implications of the proposal for federal-provincial integration of tax administration.

---

[1] Bill C-43, An Act To Establish the Canada Customs and Revenue Agency and To Amend and Repeal Other Acts as a Consequence, first reading, June 4, 1998.

[2] Robert E. Plamondon, *Cutting the Cost of Tax Collection Down to Size: Estimating the Magnitude of Compliance and Administrative Costs of Canada's Tax Systems* (Ottawa: Public Policy Forum, December 1997).

[3] "Back to the Future: Is It Time To Put Revenue Canada into Commission?" (1995), vol. 43, no. 6 *Canadian Tax Journal* 1901-15.

[4] Some readers of our previous article interpreted our comments as allegations of political involvement or interference; our point was merely that, like justice, administration of taxes must not only be carried out in a non-political manner but be *seen* to be carried out in a non-political manner.

## THE AUSTRALASIAN AND BRITISH MODELS

As possible models for a more depoliticized tax administration, we examined the revenue authorities of Australia, New Zealand, and the United Kingdom, which combine "horizontal" control by the central government with a degree of independence from "vertical" control. In this context, horizontal control is control over common policies or conditions of operation, including personnel management, purchase of goods and services, use of property, and similar matters. Vertical control is the ability to impose policy directives, to approve rules and procedures, to make appointments, and generally to determine policy, direction, and administration. In each of Australia, New Zealand, and the United Kingdom, the revenue authority is horizontally integrated or dependent but enjoys a significant degree of vertical independence from political direction. This independence is accomplished by vesting responsibility for tax administration in civil servants who, though ultimately accountable to the legislature, are not subject to political direction in the same manner as the officials in an ordinary government department. By means of this structure, the revenue authorities are less politicized than other departments of the central government.

The general administration of taxes in Australia is the responsibility of the commissioner of taxation, as well as three second commissioners and provincial deputy commissioners, all of whom are appointed by the governor general and who carry out the administration and tax collection functions through the Australian Taxation Office (ATO).[5] The commissioner has broad powers with respect to administration, but these powers do not extend to the ability to alter legislation to accommodate policy objectives; however, in circumstances where the legislation is unclear, the commissioner has discretion to determine, subject to review by the courts, how it is to be applied in a particular circumstance. The converse is also true, in that the government's role in the administration of taxes is limited to the enactment of tax legislation. As a result, the administration of Australian taxes is statutorily independent of the federal treasurer, although in practice the ATO often takes policy direction from the Treasury where the intention or interpretation of the legislation is in issue.

Such independence is also enjoyed by the Inland Revenue Department (IRD) in New Zealand, which is responsible for the administration of taxes. The IRD is headed by an appointed commissioner, who is charged with the overall leadership and operational direction of the department. Although the minister in charge of the department is responsible to Parliament for its proper administration, the minister does not involve himself in the administration of taxes and deliberately avoids contact with the IRD with respect to decisions that relate to individual taxpayers.

[5] See Taxation Administration Act 1953, as amended, section 3A, and Income Tax Assessment Act 1936, as amended, section 8.

In the United Kingdom, responsibility for the administration of income and capital gains taxes is vested by statute in the Board of Inland Revenue.[6] The board is composed of commissioners who are civil servants; and, although the board is specifically subject to the "authority, direction and control" of the Treasury and is required to obey its instructions, the administration of taxes is effectively carried out with a significant degree of independence from the Treasury and, in particular, the Chancellor of the Exchequer. There is no counterpart in the United Kingdom, or in Australia, of Canada's minister of national revenue.

## THE AGENCY PROPOSAL

The proposal for the agency, at first glance, appears to follow the Australasian or British model. On closer inspection, however, in terms of vertical control, it does not essentially change the position of Revenue Canada or its relationship with the minister of national revenue ("the minister"). In the interest of "accountability," the existing system of vertical control is substantially maintained.

The Department of National Revenue is to disappear and its personnel and property to become those of the agency.[7] The agency will be headed by a commissioner of customs and revenue ("the commissioner"), who will be the chief executive officer of the agency, responsible for its day-to-day management[8] and appointed by the federal government to hold office during pleasure for a renewable term of up to five years.[9]

While the Department of National Revenue will disappear, the minister will not. Although any model of revenue collection in a parliamentary system requires a minister through whom the revenue authority answers to Parliament and who is responsible for the revenue authority's spending estimates, earlier statements[10] by the federal government about the agency proposal made no reference to the continuing existence of the minister. Bill C-43, however, leaves the minister in place with undiminished statutory authority for the administration and enforcement of federal taxing statutes.

The duty of the commissioner and the primary function of the agency are to support and assist the minister.[11] The minister will authorize the commissioner or employees of the agency to exercise the minister's powers in the same way in which the deputy minister of national revenue and

---

[6] See Taxes Management Act 1970 (UK) 1970, c. 9, section 1(1).

[7] Bill C-43, clauses 90 to 105 and 187.

[8] Ibid., clause 36.

[9] Ibid., clause 25. Provision is also made for a deputy commissioner of customs and revenue, ibid., clause 26.

[10] For example, the question and answer sheet released by the government of Canada on September 10, 1997.

[11] Bill C-43, clauses 5(1)(a) and 38(2).

employees of Revenue Canada now exercise those powers.[12] In addition, the minister is given specific statutory authority to direct either the commissioner or any employee of the agency in the exercise of any power, duty, or function that the commissioner or employee is authorized to exercise by the minister[13] and to formally inquire into any activity of the agency.[14] The structure contemplated and the continuing role of the minister are significantly different from the Australasian and British models and seem to indicate the government's unwillingness to grant any materially greater political independence to the agency. The true thrust of the proposal is to give the agency increased administrative flexibility. In terms of our analytical framework, this is a move in the direction of reduced horizontal control and greater administrative decentralization, while maintaining the substance of vertical control and politicization.

The background document released on the introduction of Bill C-43 summarizes the purpose of the agency proposal as follows:

> Agency status will ensure that the current powers of the Minister of National Revenue and accountability to Parliament are protected, while providing the flexibility needed to manage future business growth, meet client service expectations, and pursue new service opportunities.[15]

The document identifies "two key objectives" of the agency proposal: more efficient tax administration if the agency is "organized and managed according to its own tailored systems,"[16] rather than as a traditional government department; and cost savings from integrated administration of federal, provincial, and territorial taxes. We discuss the issue of administrative flexibility and efficiency further below.

## THE ACCOUNTABILITY ISSUE

The rejection of a greater degree of independence, reduced vertical control, and depoliticization for the agency is justified in the background documents for Bill C-43 under the mantra of "accountability." The federal government has stressed that "[f]ull ministerial and cabinet accountability for the Agency will be maintained," that the federal government will "remain firmly in control," and that the broader interests of "Cabinet" will be protected.[17] The June 1998 background document states that the

---

[12] Ibid., clause 8(1).

[13] Ibid., clause 9.

[14] Ibid., clause 13.

[15] Revenue Canada, "Canada Customs and Revenue Agency," accompanying the Revenue Canada news release of June 4, 1998.

[16] Revenue Canada, "Backgrounder," accompanying the Revenue Canada news release of June 4, 1998.

[17] Revenue Canada, *Questions and Answers: Release of the Proposed Legislative Framework for the Canada Customs and Revenue Agency*, January 1998.

need to retain full ministerial responsibility and accountability for federal tax, trade, and customs programs is a "key principle" of the agency proposal.[18]

The concern for accountability is without doubt politically driven and appears to derive from several sources. First, business taxpayers (and particularly larger business taxpayers) have expressed concern that a close connection between the revenue authority and the Department of Finance be maintained to mitigate administration of legislation by the revenue authority that is inconsistent with the intention of the Department of Finance in drafting the legislation. The Tax Executives Institute, for example, has advised the minister that it "would be gravely concerned if the new agency were structured in a fashion that unduly separated the development or interpretation of tax policy from its administration."[19] The desire for a close working relationship with the Department of Finance that flows from this concern is not, however, inconsistent with a reduced degree of vertical control by politicians. Such technical cooperation could be mandated either by specific statutory direction or by a formal instruction from the government. The ATO, for example, in practice takes direction on such tax policy matters from the Treasury. There is no reason to believe that the close coordination of tax policy and tax administration furthered by the existing system of interdepartmental committees (including the GAAR Committee) and meetings of assistant deputy ministers, through which, among other things, areas that require legislation are identified and draft legislation is reviewed, would be adversely affected by a reduced degree of vertical control.[20] Such continued cooperation is not, in itself, inconsistent with the objective of making the tax administration process more independent of political control. Continued direct control of the revenue authority by a cabinet minister is certainly not required to allay these concerns about coordination of drafting and administration.

A single-minded focus on coordination between the revenue authority and the Department of Finance also ignores the professed goal of furthering federal-provincial integration of tax administration. One of the principal obstacles to greater federal-provincial integration, discussed below, is the provinces' belief that the federal government is not willing to make any genuine accommodation of provincial priorities. While the primary responsibility in this area rests with the Department of Finance, a more independent revenue authority should be able to coordinate its activities with both federal and provincial finance departments in a way that would

---

[18] Supra footnote 16.

[19] "Ottawa Poised To Introduce Tax Superagency Law," *The Globe and Mail*, September 4, 1997.

[20] The auditor general's report for 1998 concluded that the working relationship of Revenue Canada and the Department of Finance in this area has improved in recent years. See Canada, *Report of the Auditor General of Canada to the House of Commons 1998* (Ottawa: Minister of Public Works and Government Services Canada, 1998), chapter 5, section 5.87, at 5-20.

give the provinces some assurance that it was more than an agent of the federal government.

A second factor underlying the emphasis on accountability is that large business taxpayers have also expressed concern that a more independent and less politicized tax administration would be unduly focused on the generation of revenue with "less sensitivity to policy intentions."[21] In the same context, large corporations have been described as being hesitant about "losing the ability to make their economic arguments about taxation to a political minister."[22] The reference in this context to "economic arguments" is presumably not to tax policy arguments, which, in any event, would be addressed to the minister of finance, but to arguments about the economic impact on particular taxpayers of specific tax administration decisions. This is one source of the concern about the politicization of tax administration we previously described,[23] namely, that certain taxpayers may be able to influence the way in which taxation laws are applied to them by intervening with the minister.

There may be legitimate political grounds for such intervention—the government may seek an economic outcome that would be frustrated by the particular tax consequence, or it may wish to avoid other economic or political consequences of the particular tax treatment of a large taxpayer. Our point is not that there is anything inherently wrong with such actions, but that there is a clash of goals or objectives. On the one hand stands the independence of the tax collection process and public perceptions of independence and neutrality; on the other, the particular benefit, whether economic or political, flowing from politically motivated intervention. We note that such intervention could also be effected in a more independent model, like the British one, by specific direction to the revenue authority, which could be a matter of public record. From the standpoint of the taxpayer, this approach might involve a loss of confidentiality, but this is arguably the price to be paid for special treatment. From the standpoint of the government, it would require accountability of a different sort, accountability to the public for a decision that would have an impact on the public revenue. If such administrative concessions are considered tax expenditures, there are also strong arguments that they should be more transparent, so that there is clear public accountability for the cost involved.

A third factor related to accountability is fear that a more independent revenue authority would revert to what is perceived to be the "bad old days" of Revenue Canada in the early 1980s (before the Beatty task force and the declaration of taxpayer rights). An assistant deputy minister in Revenue Canada has been reported as saying that "business groups have argued for effective political oversight to prevent the agency's tax collectors

---

[21] Supra footnote 2, section 8.3, at 91.

[22] Ibid., section 8.3, at 91.

[23] Supra footnote 3, at 1903.

from resorting to strong-arm collection techniques or other overly aggressive tactics."[24] The June 1998 background document describes the minister as having a continuing role in ensuring that the agency "deals fairly and equitably with its clients."[25]

Distrust or suspicion of government authorities is typical of some strains of populism, which has always been present in one form or another in Canadian political culture.[26] In the last decade or so in Canada, there has been an upsurge of right-wing populism, centred (but not exclusively present) in the Reform Party, one of the strongest features of which is a pervasive distrust of government (and especially the federal government) and of bureaucrats. In a political culture where populism is at least temporarily strong, it is more difficult to maintain an independent revenue authority based on the Australasian or British model. These models rely both on a degree of public trust and confidence that independent civil servants will not misuse the powers given them (and therefore do not have to be kept "accountable" to government), and on the willingness of politicians to resist contrary pressures. We are not aware of any evidence that officials of Revenue Canada are abusing or misusing their statutory powers in any significant way, and we doubt that lessening of direct political control would encourage such behaviour. The courts have not been reluctant to curb such behaviour (for example, preventing Revenue Canada from using in a civil assessment evidence initially obtained in contravention of the Charter for the purpose of a criminal prosecution), and resort could be made to direct instructions from the government (as contemplated in the United Kingdom) in exceptional circumstances. It is also important, from the taxpayer's viewpoint, to distinguish between opposition to genuine abuse or overzealous use of power and resentment of the lawful enforcement of revenue measures that impede avoidance or evasion of tax.

## THE BOARD OF MANAGEMENT

Our conclusion that significantly greater independence for the agency has been rejected is reinforced by consideration of the role contemplated for the agency's proposed Board of Management ("the board"), which is a hybrid of a corporate board of directors and an advisory board. The responsibility of the board is limited to overseeing the organization and administration of the agency and the management of its resources and personnel.[27] The board is specifically denied the power to direct either the commissioner or any employee of the agency in the exercise of any function in

[24] Supra footnote 19.

[25] Supra footnote 16.

[26] See Colin Campbell and William E. Christian, *Parties, Leaders and Ideologies in Canada* (Toronto: McGraw-Hill Ryerson, 1996), chapter 6. In the politics of left-wing populism, distrust is more likely to focus on business interests.

[27] Bill C-43, clause 31(1).

relation to the tax legislation administered or in the enforcement of such legislation.[28] The board may advise the minister (though apparently not the commissioner) on the general administration and enforcement of tax legislation[29] and is responsible for developing the corporate business plan of the agency.[30] The proposed role of the board is consistent with our conclusion (discussed below) that the proposed agency structure is directed more to improving the operational efficiency and "flexibility" of Revenue Canada than to replacing it with a more genuinely independent body.

## ADMINISTRATIVE FLEXIBILITY AND OPERATIONAL EFFICIENCY

It is intended that the operational efficiency of the agency will be enhanced by

- negotiation by the agency of union contracts with its own bargaining units as a separate employer under the Public Service Staff Relations Act without direct Treasury Board involvement, although before entering into a collective agreement the agency must consult the Treasury Board on its human resource plan;[31]
- freedom to hire, classify, and remunerate employees without direct Treasury Board or Public Service Commission supervision or regulation, and without reference to the Public Service Employment Act;[32]
- freedom to acquire or lease personal property as needed outside the general public service framework;[33]
- authority to acquire, manage, and control real property as needed;[34]
- some freedom to raise and return revenue through fees;[35] and
- authority to procure goods and services (other than legal services) outside the public service.[36]

One can easily conceive of situations in which these changes to the agency's operational infrastructure could result in increased efficiency. For example, the ability to hire in areas in need of increases in staffing levels should result in increased efficiency. The efficiency of the taxing authority (in fact and in public perception) might well be improved if additional staff were employed to deal with situations in which taxpayers are directly involved and which now involve some element of delay, such

[28] Ibid., clause 34.

[29] Ibid., clause 33.

[30] Ibid., clause 31(2).

[31] Ibid., clause 58.

[32] Ibid., clause 51.

[33] Ibid., clause 61.

[34] Ibid., clause 75.

[35] Ibid., clause 60(2).

[36] Ibid., clause 66.

as requests for clearance certificates, advance tax rulings, and technical interpretations. The flexibility to negotiate salaries independent of the Treasury Board could assist the agency in attracting and retaining skilled employees in an environment in which salaries in the private sector often exceed, or are perceived to exceed, those in the public sector.

## FEDERAL-PROVINCIAL INTEGRATION OF TAX ADMINISTRATION

The agency proposal purports to facilitate integration of federal, provincial, and territorial tax administration by allowing the provincial and territorial governments to participate in appointing members of the Board of Management. Eleven of the 15 members of the board will be chosen by the federal Cabinet from lists of nominees submitted by the provincial and territorial governments (one director for each province and one director for the territories).[37]

Some provinces have already expressed their reluctance to use the federal tax collection machinery for provincial tax administration. To the extent that their reservations are founded on the prospect of dealing with a body under the direct control of federal politicians, the proposed agency structure will not represent a significant improvement. Moreover, in our view, participation in the agency's operation through the nomination of appointees to the Board of Management will not materially increase the attractiveness of the agency from a provincial standpoint, since the directors' powers will be restricted to administrative and organizational matters.

The provinces are concerned that, by abandoning their tax collection machinery to a federal agency, they would effectively lose influence over the design of the tax system. In the words of Alberta Treasurer Stockwell Day, "We're worried that if we buy into this superagency and fold our systems into it, we would have less leverage in asking for a co-operative approach to tax policy."[38]

Alberta, and more recently Ontario, complain that the federal government is not willing to accommodate provincial wishes to diverge from federal tax design—for example, to adopt a less progressive personal income tax rate structure. To date, provincial requests that Revenue Canada amend the federal-provincial tax collection agreements to allow collection of provincial tax imposed on a common income or taxable income base, rather than a base of federal tax payable, have fallen on deaf ears. Whether the cause is bureaucratic inertia, perceived technical difficulties, or an attempt to force the provinces to adhere to the same general (that is, federal) tax policy stance is unclear. The reluctance of Alberta and Ontario to entrust corporate income tax collection to an agency clearly directed by the federal government is, however, understandable. The independent

---

[37] Ibid., clause 14.

[38] "Alberta Cool to Ottawa's National Tax Agency Plan," *The Globe and Mail*, September 16, 1997.

taxing jurisdiction of the provinces might not be fully respected by an agency of a federal government pursuing different tax policies, and—as noted by Stockwell Day—the leverage flowing from retention of the machinery to pursue different policies would be lost.

It is uncertain how much real independence the agency will have in entering into future tax collection agreements with the provinces or amending the existing agreements. Clause 63(1) of Bill C-43 empowers the agency to enter into or amend tax collection agreements with the provinces provided that the tax to be administered complies with established federal-provincial guidelines and the agreement is made in accordance with procedures established by the ministers of national revenue and finance. Clause 5 of Bill C-43 gives the agency responsibility for implementing agreements between the provinces and the federal government or between the provinces and the agency.

The limited federal-provincial accord on criteria for federal administration of provincial taxes reached in December 1997 is extremely general in nature and includes the following minimum criteria that a provincial tax must meet if the agency is to administer it:[39]

- The tax must be legally valid and not in violation of international obligations.[40]
- The tax should not jeopardize the self-assessment system.
- The tax should not lead to double taxation.
- The specific arrangements must be "acceptable to the Agency and the province in question." In determining acceptability by the agency, provincial taxes will be judged in terms of certain "standards of service," including fair appeal mechanisms, provision for privacy and confidentiality, provision of information about entitlements and obligations, and "fair processes" to obtain entitlements and fulfil obligations.
- The tax must not impair the agency's ability to administer existing taxes.

In addition, a number of "economic union" criteria will be applied to determine whether the agency will administer a particular provincial measure and, if so, whether the province will be charged for the administrative services. "Locational" tax incentives (presumably measures that encourage businesses to locate or invest in a province) will be administered only if they do not discriminate between residents of the province and nonresidents. Provincial taxes (or tax measures relating to provincial taxes already administered by Revenue Canada) that are not harmonized with

[39] Revenue Canada, "Criteria for Federal Administration of Provincial Taxes," *Canada Customs and Revenue Agency: Second Progress Report* (Ottawa: Revenue Canada, January 1998), 10.

[40] Because Canada's tax treaties apply only to federal taxes, it is not clear that this requirement represents any meaningful limitation.

the corresponding federal tax will be administered by the agency only on a full cost-recovery basis. Provincial taxes will be administered by the agency without cost to the province only if they "fully replicate" the corresponding federal tax.

It is therefore still uncertain whether the agency would, as a number of provinces wish, collect provincial income taxes based on the same calculation of net income or taxable income made under the Income Tax Act, but applying different credits and rate structures, and, if so, whether such taxes would be subject to full cost recovery by the agency or would continue to be administered at no cost to the provinces. Because the minister has ultimate power to direct the agency, it is unclear whether the agency will act any more independently than Revenue Canada has in the past. The June 1998 background document states that the agency will be "accountable" to the provinces in respect of agreements to collect provincial tax.[41] Given the continuing control by the minister over the agency, that accountability presumably would flow from the terms of the collection agreements themselves. Whether and how that will occur remains to be seen.[42]

It is possible that provincial reluctance to use the agency to a greater extent may be less pronounced in the case of commodity taxes or payroll taxes and levies (ranging from provincial sales tax to taxes on tobacco and alcohol, payroll taxes, and workers' compensation levies) than in the case of income or capital taxes, which tend to be more complex and involve more sophisticated tax policy considerations. It is understood that the agency is prepared to collect virtually any tax or levy imposed under provincial authority on a contractual basis and that some interest has been expressed by provinces in using the agency in this manner for taxes other than income or capital taxes. It seems unlikely, however, that Alberta or Ontario would use the agency in this way while continuing to administer their own corporate income and capital taxes.

It may be unfair to unduly criticize the agency proposal for probable failure to significantly integrate tax administration since the evidence suggests that, from the taxpayer's standpoint, harmonization of taxes is more important than harmonization of administration. For example, representatives of small and medium-sized businesses asked to comment on the compliance cost consequences of a single tax administration felt that it would not have a "significant" effect on such costs compared to harmonization of the taxes themselves.[43] Indeed, the goal of a more independent

---

[41] Supra footnote 16.

[42] In June 1991, the then finance minister released a discussion paper on the federal-provincial tax collection agreements that considered provincial requests for more flexibility and some of the issues, technical and otherwise, flowing from such a change. The apparent failure or inability of the governments involved to resolve this issue over the last seven years may not bode well for any greater progress under the agency structure.

[43] Supra footnote 2, section 8.1.3, at 57-58.

revenue authority designed to promote greater federal-provincial cooperation in tax collection may be irrelevant to the interest of taxpayers (and particularly larger corporate taxpayers) in tax harmonization. The comment has been made that, for larger corporate taxpayers, having a single tax administered by 10 separate revenue authorities is preferable to having 10 separate taxes administered by a single revenue authority.[44] Having a single tax administered by a single agency is obviously better still, but not critically so. Representatives of large businesses have agreed that, measuring reduction of compliance costs on a scale of 0 to 10, with 10 representing full harmonization of taxes, a single administration in itself would rate a score of 2.[45] The harmonization of substantive taxes, however, is outside the competence of the revenue authority. What provinces such as Alberta and Ontario have been seeking is not the collection by a single agency of taxes that are fundamentally different, but the application to a substantially common tax base of a differently designed rate and tax credit structure. It is the willingness or ability to administer these "quasi-harmonized" taxes that is important to the provinces, and the board, which is to represent provincial interests, will not have the power to commit the agency to collect such taxes on reasonable terms.

The cost reduction study prepared in connection with the agency project[46] concluded that the annual compliance costs for Canadian business taxpayers from a single administration of all provincial taxes (other than real property taxes) would range from $171 million to $285 million, or between 5 percent and 8 percent of total tax compliance costs for Canadian business. The likelihood of Quebec's participating in a single administration is so remote that a separate calculation of business compliance cost savings was prepared on the assumption that Quebec would not participate. This calculation produced savings in the range of $116 million to $193 million. The study also calculated the possible savings in the cost of tax administration by the provincial governments resulting from single administration at between $97 million and $162 million. Once again, a separate calculation was made on the assumption that Quebec would not participate in a single administration, and again the savings dropped substantially, to between $37 million and $62 million. No attempt was made to estimate savings that might flow from harmonization of the taxes themselves rather than of tax administration or the effect on compliance costs of alternatives such as using the provincial tax administrations to collect federal taxes on gasoline, tobacco, or alcohol (in the same manner in which the goods and services tax in Quebec is collected by the Quebec Ministry of Revenue).

The projected cost savings are therefore relatively modest and depend on the assumption that all provincial taxes in all provinces (or in all provinces except Quebec) will be administered by a single tax authority.

---

[44] Ibid., section 8.3, at 90.

[45] Ibid., at 93.

[46] Ibid., at 108-10 and 128-31.

It is interesting to note that no estimate was made of any increase or decrease in cost to the federal government from the conversion of Revenue Canada to the agency; nor was any account taken of charges that might be made by the agency to one or more provinces for collecting taxes that were not sufficiently harmonized with the corresponding federal tax to qualify for collection without charge. The modest cost savings that might flow from the agency proposal, however, do mesh well with the stress laid on achieving greater efficiency and flexibility in the federal revenue authority.

## CONCLUSION

The proposal to replace Revenue Canada with the agency has now been gestating for two years and has absorbed significant amounts of time and effort from Revenue Canada. It has been subject to a substantial consultation process and has been widely promoted. Measured against the twin goals of reducing the perception of politicization and increasing federal-provincial integration in tax administration, the effort appears to be disproportionate to the result: our conclusion is that the project does not materially advance either goal. If, on the other hand, the agency proposal is viewed primarily as an exercise in promoting administrative efficiency and flexibility within the federal administration, it may well achieve a real, if modest, degree of success.