

Annex A:

For consideration

Further to the other issues raised in my submission, I would like to offer some considerations for the Committee regarding another aspect of C-31. Bill C-31 changes the *Income Tax Act* to allow for broader disclosure of taxpayer information to law enforcement if there are “reasonable grounds to believe” that the information provides evidence of specific criminal offences.

Our paper entitled *A Matter of Trust: Integrating Privacy and Public Safety in the 21st Century* lays out the analytical framework for balancing the privacy in relation to the wider policy goals of national security and public safety. In it, the four-part test of proportionality, necessity, effectiveness and minimal intrusion are described which we believe would be of assistance in assessing this provision of C-31.

In that regard, we would urge the Committee to examine the following points in terms of this provision:

- Is there a pre-existing capacity for this kind of information to be shared by CRA with law enforcement which this legislative amendment merely codifies, or does this proposal represent a new power being granted to CRA?
- Has the Government presented any evidence to support the necessity of this provision?
- How would “reasonable grounds” be determined?
 - What guidance will CRA officials be given to assist them in making this determination? Will there be a process put in place whereby legal advice can be sought on an expedited basis on this point?
- What oversight regime would support this amendment?
 - Given that this amendment would allow CRA to share information in the absence of a warrant thus removing it from judicial oversight, how would the Government reassure Canadians that their financial information is not being shared without due consideration?
- What recourse mechanism is in place for taxpayers who believe their information was erroneously disclosed?
- How will CRA track how often this provision is used (i.e. how frequently taxpayer information is shared with law enforcement)?
 - How will the effectiveness of this new power be assessed?

I trust this is of assistance.