

CHAPTER 6

THE COLLECTION OF TAXES PRIOR TO APPROVAL OF THE ENABLING LEGISLATION

PRINCIPLE: Taxes should not be collected unless the enabling legislation has been enacted.

It has become standard practice for governments to start collecting taxes upon the tabling of a Notice of Ways and Means Motion in the House of Commons. In many cases the legislation has not even been introduced let alone passed by the House. The collection of taxes without the authority of Parliament is offensive. In addition it creates problems for taxpayers, withholding agents, Revenue Canada and others.

The government proposed in the referred paper to solve these problems by enacting a statute entitled "The Provisional Implementation of Taxation Measures Act" which if utilized with respect to a proposed taxation measure would give the tax an aura of legitimacy for 180 sitting days. The tax could be legally collected for this period.

The proposal was greeted with a great deal of opposition from a majority of witnesses for a variety of reasons. There were those who opposed the very idea of taxes being collected prior to the enabling legislation receiving Royal Assent. Some felt that if such a statute as the Provincial Implementation of Taxes Act was necessary then it should only apply to commodities where there would be stockpiling and a significant revenue loss if the tax was not imposed on the day it was announced. Others advanced the position that in the vast majority of cases the stockpiling of commodities was impractical and would not take place. The cost of storage is too high.

If there is to be certainty in the process, it is important that the tax legislation be in place prior to the tax being collected. We are not persuaded that the possible loss of revenue on commodity taxes, if the taxes are not immediately imposed, would be significant. Such a loss is not great enough for us to abandon the principle of certainty. In the fiscal area, as with other areas, if there is an emergency or a profound reason for requiring the early implementation of legislation, the government has within its power the ability to timetable legislation through the House of Commons.

We, on principle, recommend the rejection of the whole concept of a Provisional Implementation of Taxation Measures Act. However, if the government wishes to proceed along this route we believe it is important that we express our particular criticisms regarding certain sections of the proposed bill.

While the bill is supposedly modelled on the *Provisional Collection of Taxes Act* of Great Britain it lacks some of the important features of that Act. For example, there is no limit upon the time that the government may take to introduce a taxation bill or have it called for second reading. While there is a limit of 180 sitting days from the time the Ways and Means motion is tabled to the time when the bill based upon it must receive Royal Assent, there is nothing which requires the government to introduce the bill within a reasonable time following the budget speech to ensure that the House has an adequate opportunity to debate it.