

*Estate Tax*

duty act no attempt has been made to tax real estate situate outside of Canada and owned by the deceased, and I think this new principle broadens the scope of property made subject to tax. I think it is worthy of investigation whether we want to go that far.

Under subheading (b) of part 1 we find the rules for computing the net value of the estate passing on death. According to section 4 we find that the value includes that of all property owned by the deceased, and also the value of certain other property; and the words "certain other property" are well worthy of investigation, to my mind. What could this other property be? First of all it could be a gift by trust or otherwise made within three years, if benefit had been reserved. Second, it could be property held jointly by the deceased and another person except such portion of such property as it can be established was contributed by the survivor from property other than that derived from the deceased.

As an example, a husband and wife have purchased a home; the wife contributes part of the money which she has received from the husband. She could have done something else with it; nevertheless she put the money into the purchase of this home. In that case she gets no benefit on her husband's death. On the other hand, if she paid in money she had earned herself she might be able to get some benefit.

Third, it could include the excess value of any property at the date of death over the consideration agreed to and actually paid during the deceased's lifetime for such property. As an example, there are two partners and one agrees to buy the other out on the death of the first. The increased value of the partnership is also included, and no provision is made for incentive.

Then under paragraph 4 it could include any property disposed of by any person, including an employer, on or after the death of the deceased, in recognition of services rendered by the deceased as an employee whether or not the person to whom the disposition was made held any legally enforceable right to such disposition. Thus, for example, if an employer desired to give one year's salary to the widow of an employee on the latter's death, she would have to pay double tax. The year's salary would be subject to income tax, and second it would be subject to estate tax, and I think this question should be considered very carefully.

Then under paragraph 5 it could include the proceeds of any life insurance policy payable to a company controlled by the deceased. Thus, for example, if someone owns 51 per cent of the stock of a company—and

we can assume he controls the company—and enters into a loan for business purposes of let us say \$100,000 and, in order to guarantee eventual repayment of that loan, insurance is taken out; after the 51 per cent shareholder dies that \$100,000 of insurance taken to secure the loan by the bank is deemed to be part of the estate. So again we have double taxation; first on the increase in the value of the company due to the addition of \$100,000, and second when the \$100,000 is added to the value of the estate, even though the estate did not receive that \$100,000. These are new provisions, and I think they are grossly unfair.

Then under paragraph 6 the proceeds of any insurance payable to the spouse or child of the deceased, unless it can be shown that the premiums for such insurance had been paid from property other than property derived from the deceased, can also be included. The effect of this is that all third party insurance applied for and owned by a spouse or child is taxable as forming part of the estate unless it can be shown that the amount used to pay premiums came from a source other than the deceased. Now, if I desire to make a gift of money to my wife she can do anything with that money except buy insurance; but if she does buy insurance then the proceeds are taxed. It would appear that insurance is being discriminated against, yet life insurance is the one protection which so many people desire in order to have the ready cash to help pay these death duties.

Under subsection (c) on taxable value exemptions, I will not go over the figures which have been given—the basic exemption of \$30,000, the \$60,000 to a widow, infirm husband, child under 21, wholly dependent child over 21, plus \$10,000 for each such child. There is a \$15,000 exemption in cases where there is no spouse but there are dependent children, plus the basic exemption of \$30,000. These exemptions are allowed even though the person because of whom the exemption is allowed receives no benefit from the deceased's estate. This concerns us very materially in the province of Quebec. I will not take the time of the house at this moment to discuss that point further, but it is a matter well worth looking into.

Section 9, of course, is subsection "d" concerning computation and deductions, sets out the table of rates. Under the succession duty act we calculate the value on the benefit to the beneficiaries, but under the proposed estates tax act it is the size of the net taxable estate which pays the duties.

Under subsection "e" concerning returns, assessment, payments and appeals there is a matter I would like to refer to in section 14. Under the present act the executor must