

Income Tax

Would the Parliamentary Secretary please answer the question instead of giving us the bafflegab of what is in Section 10 of the Income Tax Act?

Mr. Fisher: Mr. Chairman, I think that the Hon. Member has difficulty with the difference between the Act and the amendment. At the moment we have before us an Act and an amendment. When they are passed, they will be blended into one document and we will have three Sections in the law that work together; Section 10(5)(a) that says that work in progress is inventory, that is the first step; Section 10(1) in the current one which says that the value of inventory will be the lesser of either the cost or the fair market value, and finally, Section 10(4) which will define fair market value for work in progress for professionals.

We are asking the Hon. Member to see all of these in one package. We want him to realize that fair market value, is defined in Section 10(4), and will then be utilized against cost in Section 10(1) to come up with the lower of the two amounts. When we have the lower of the two amounts, we have the value of the work in progress.

Mr. Blenkarn: Mr. Chairman, if the Parliamentary Secretary had any knowledge of law he would realize that when you refer in the specific to the value of work in progress for a professional, the general categorization of work in progress, which would be applicable to manufacturers, retailers or processors, would apply, according to his argument, in Section 10(1). When you get to the specific—and the specific is clearly defined in Section 10(4)(a) to mean what work in progress is and its value—then there is no question of how it is determined. It is determined by what can reasonably be expected to become a receivable. That is what the inventory value is. That is where the problem lies. Does the Hon. Parliamentary Secretary not understand that?

Mr. Fisher: Mr. Chairman, I thank the Hon. Member for his representation. Our officials will look at this again to see if his concern is justified. I think we are looking at the same thing and seeing two different images. I am assured by the officials that the definitions he has referred to set the fair market value, and then that is put into the equation and balanced against cost, in order to determine which of the two is lower.

As I say, we understand what he is talking about. It is on the record and we will look into it and see whether there is agreement. I suspect, however, that he may be seeing a one-way street where we intend it to be a two-way street. He sees it as an irrevocable definition, that once a professional has a project, it has an invoice value and, therefore, that must be the value that the professional uses. We do not agree with that. We say that when he reaches that value he is on a two-way street. He compares it with the cost. Between the two, he determines whichever is the lower for tax purposes. Some day he will make a profit on top of the cost and then that will be taxed, in addition to the cost. Like all businesses, in the meantime that cost is taxed at the end of his year and becomes

a credit for him on the first day of the next year. He continues with that credit in the same way as any other business.

Mr. Blenkarn: Mr. Chairman, I thank the Parliamentary Secretary for undertaking to review Clause 3. His understanding is more or less the understanding we had in committee. If he will recall the committee evidence, at that time the Minister was talking about the value of work in progress at the actual cost to the professional. In other words, he was saying, with respect to a lawyer, that we would charge the cost of a junior lawyer, the actual out-of-pocket expenses. On that basis I can understand him.

What I am pointing out to him is that this particular Clause does not achieve that. It takes the hard-nosed position that taxes the work in progress and determines an inventory value for that work in progress on the basis of what might reasonably be expected to become a receivable. That can only be determined at the end of the event.

That being the case, if the Government would like to stand Clause 3 and Clause 16 temporarily and move on, we would accept that. I should like to know what the Government would like to do in that regard.

Mr. Cosgrove: Mr. Chairman, in the exchange between the Parliamentary Secretary and the Hon. Member for Mississauga South, each Member expressed a point of view which is a different interpretation of the Act. I have attempted to follow the exchange, and that is what has happened.

The officials have confirmed to me that the explanation given by the Parliamentary Secretary is the intention of the Government, it is the intention of the Section, and it is the way in which the Act has been interpreted in the past. They are confident that that is the way a court would interpret it as well.

I have to say, with the greatest respect to the Hon. Member for Mississauga South, that the officials have concluded that his interpretation of the definition of market value—the exposition being the difference between a one-way street and a two-way street—is faulty. Certainly the officials and I are not of different opinions, but obviously there will continue to be a difference of opinion between the Hon. Member for Mississauga South and the Parliamentary Secretary.

• (1620)

Mr. Hawkes: Mr. Chairman, I would like to bring two or three concrete illustrations to the attention of the Minister to see if we can resolve them and understand the Minister's interpretation. Let us assume that I am a professional person and that I sign a three-year retainer. The retainer is one where you purchase my services on a first-call basis, and the amount of money you will give me for that is \$90,000. When I do the work, I get \$600 per day. Now, at what point does the \$90,000 come into income, and how do we deal with this for inventory of work in progress? I start with a signed contract for a three-year retainer for work worth \$90,000.