

Comment: The Bar Association feels concern on two points in connection with the exclusive trust for a spouse. In the first place if money is spent for the benefit of a spouse rather than being paid to a spouse it ought to be treated in the same way. There is some concern that it would not be so treated and that the possibility of spending income for the benefit of a spouse would disqualify the trust. Similarly there is concern that if the trust must bear taxes payable to a province or to a municipality or debts of the deceased, that the trust would be disqualified. A section such as section 7(4) of the Estate Tax Act together with its interpretation is required and the Association is satisfied with the language which is proposed for this purpose.

Additional Sections to be amended.

- 110 (2) (a) Where an individual was, during the taxation year a member of a religious order and had, as such, taken a vow of perpetual poverty, he may, in lieu of the deduction permitted by paragraph (1)(a), deduct from his income for the year an amount equal to his earned income for the year as defined by section 63 if, of his income, that amount has been paid to the order.
- (b) Where a taxpayer has died in a taxation year in applying paragraph (1)(a) for the purpose of computing his taxable income for that year that paragraph shall be read without reference to the words "not exceeding 20%".

Comment: The Bill now limits charitable deductions to an amount equal to 20% of the taxable income in the terminal period. It is, in fact, not uncommon for a taxpayer to give all of his property, or all of his property subject to a life interest in favour of his spouse (and perhaps other dependants) to charity. The effect of the present provisions of the Bill would be to make some part of the charitable gift an amount in excess of the 20% limit and hence taxable. It is, therefore, suggested that in the year of death a 100% deduction should be available for charity. It is to be noted that this is not a novel suggestion. A 100% deduction is now available under the Estate Tax Act of Canada and is as well available under the Income Tax Act when a gift is being made to that well-known charity, the Crown. The Bar Association requests that the 100% deduction be generally applicable to all charitable gifts in the year of death.

- 54 (e) "listed personal property" of a taxpayer means his personal-use property that is all or any portion of, or any interest in or right to, any
- (i) print, etching, drawing, painting, sculpture, or other similar work of art,
  - (ii) jewellery,
  - (iii) rare folio, rare manuscript, or rare book,
  - (iv) stamp,
  - (v) coin,
  - (vi) antique furniture,
  - (vii) gold, silver, antique flatware or plate,
  - (viii) antique or rare china.