

Dr. EATON: Or why should he not be allowed to take advantage of the loss if the market value is below the depreciated value?

Hon. Mr. HAYDEN: Why should he not have the option?

Dr. EATON: But a principle is established.

Hon. Mr. HAYDEN: The man who makes a voluntary gift runs the risk of having to pay income tax on the amount of depreciation that you recapture.

Mr. GAUSIE: Once certain rules are made to apply in the case of a sale, I think it is fair they should apply when there is a gift. There is, of course, no recapture where property is transferred by a will.

Hon. Mr. VIEN: How would you establish the fair market value? Would you require the donor or the donee to establish to your satisfaction what the fair market value was at the time of the gift?

Mr. GAUSIE: It does not make a great deal of difference to the department, senator, because the donor is deemed to have received the fair market value and the donee is deemed to have paid it to him, because the donee will be depreciating the same amount as the donor is deemed to have received. So far as the department is concerned there is no difference, unless one party is not a taxpayer and the other is a substantial taxpayer.

Hon. Mr. NICOL: The donor has to pay a gift tax, and in order to determine what the gift tax is the property must be valued.

Hon. Mr. HAYDEN: The difficulty is that two taxes have to be paid. First of all, the man who gives away a piece of property in his lifetime is obliged, if the value of the property exceeds a certain amount, to pay gift tax, and also the depreciation that he has taken on the property can be recaptured. Under the present law a man pays a gift tax, but this amendment proposes an additional tax.

Hon. Mr. CAMPBELL: Mr. Chairman, is it not the object of this to prevent a person from defeating the whole purpose of the act? If a man sold a piece of property for \$X, which would make him liable to a certain tax on recaptured depreciation, he could in the absence of such a provision as this defeat the whole purpose of the legislation.

Hon. Mr. HAYDEN: It is an exaggeration to say that he could defeat the whole purpose of the legislation for whether this provision is in the law or not the man would be subject to the full force and effect of the law.

Mr. GAUSIE: I do not think Senator Campbell meant that the full purpose of the legislation would be defeated, but that this would be an obvious omission.

Hon. Mr. CAMPBELL: Yes.

Hon. Mr. HAYDEN: The scheme of depreciation is to recapture depreciation or to see to it that if it is not recaptured the value for depreciation in the next hands will not be carried at a higher figure than the depreciated value before the transfer.

Mr. GAUSIE: No, we go further than that. What we are seeking to provide is that when a person disposes of property, whether by gift or by sale, the fair market value will be taken into consideration, both for the purpose of sale and for the purpose of purchase. In cases where there is a deal between strangers we assume that what a stranger is prepared to pay for a property is the fair market value, but where there is a gift we have no such assumption as that.

Hon. Mr. HAYDEN: Suppose a philanthropic citizen owned an industrial site and some buildings on it and decided to give the whole thing away to an organization that he set up for charitable purposes. Not only would he be giving away the property, but if it had been depreciated before he made the gift he would also have to pay tax on the recaptured depreciation to the extent of the fair market value.