

Income Tax Conventions

convention itself contains an exhaustive definition of the term "dividend". In that case, if there is a difference between the definition contained in the convention and that provided in the country's legislation, normally the convention's definition would prevail. Thus, the Bill would not affect the clause, generally designated as the treaty's notwithstanding clause or the incompatibility provision in the enabling legislation for all Canadian tax treaties, which provides that in case of incompatibility between the convention's provisions and the provisions of any other legislation, the provisions of the convention prevail. This rule is consistent with those applied by most other countries when interpreting tax treaties.

Bill C-10 also provides an interpretation rule for non-residents whose business activity in Canada is carried out through a permanent establishment. This rule will make it possible to ensure that non-residents determine their profits from a business activity attributable to that permanent establishment in accordance with the Income Tax Act regulations at the time of determination of income from a business activity. This measure ought to allay any and all concerns raised by the Melford ruling which states that non-residents may indeed claim that the meaning of profits under Canada's tax conventions does not include the meaning as defined in amendments to the meaning of benefits from a business activity under Canadian tax legislation passed after the adoption of the convention. This Bill will ensure that non-residents who do business in Canada will determine their profits the same way as taxpayers who do reside in Canada.

As well, Bill C-10 contains the meaning of certain terms found in most Canadian tax conventions. For instance, the meaning of the term "Canada" will be the same as in the Income Tax Act and specify that the term "Canada" includes the seabed adjacent to the Canadian coast which falls under the jurisdiction of Canada.

The Bill also defines the terms "immovable property" and "real property".

• (1115)

Most Canadian conventions include special provisions on immovable or real property. Generally speaking, they provide that the country where such property is located has the right to tax income from that property, including any capital gain from its sale. Those provisions will make it clear that, as used in the convention, the terms "immovable property" or "real property" refer to any royalty or profit from an interest in the property which, for the purposes of Canada's tax legislation, is considered to be a Canadian mineral asset. Those definitions are in accordance with those included in the new Canada-United States convention.

Finally, under Bill C-10, the preceding provisions will apply, in respect of tax deductions at source for non-residents, to payments made after June 23, 1983 when the former government first announced publicly its decision to introduce legisla-

tion on the interpretation of tax conventions in Canada. As for any tax other than the non-resident tax deducted at source, the provisions will apply to taxation years ending after June 23, 1983.

Mr. Speaker, the rules of interpretation contained in Bill C-10 are the same as the interpretation that Canada and the major countries with which it has signed conventions gave to conventions concerning double taxation before the Melford ruling.

Under the provisions of Bill C-10, there will be a standard interpretation of terms and expressions already used in many Canadian tax conventions. In other words, the interpretation will no longer be subject to change on the basis of the ratification date of a given convention. The Bill will also eliminate the need to renegotiate such conventions whenever an amendment is made to the meaning of a term under our tax legislation.

Mr. Speaker, the provisions of Bill C-10 have been the subject of long public debates. It was first introduced as a ways and means motion on July 23, 1983 and, after a few technical changes, on April 4, 1984. Those changes take into consideration the comments made by tax experts. Quick passage of this measure will remove uncertainties which still blur the interpretation of tax conventions.

I strongly urge all Hon. Members, concerned as they are with the efficiency of our parliamentary institutions, to support this Bill so that it may be adopted as quickly as possible.

Hon. Donald J. Johnston (Saint-Henri-Westmount): Mr. Speaker, I would first of all like to congratulate the Hon. Parliamentary Secretary and my neighbour, the Hon. Member for LaSalle (Mr. Lanthier), for wanting to associate with a Liberal proposal. We have here a Bill that was introduced by the previous Government, and I understand that the Hon. Member is in complete agreement with the intent and the merit of this legislation.

[English]

There is not a great deal to say about this particular Bill. It is important in terms of allowing our domestic income tax to conform, on the one hand, to our international obligations and to ensure, as the Parliamentary Secretary pointed out, that when there is an ambiguity or a lack of interpretation, no void is created; and, on the other hand, that international conventions are constantly kept up to date in terms of our current interpretation and the changes we may wish to implement through amendments to the Income Tax Act and laws in Canada.

[Translation]

Mr. Speaker, having said this, I would like to emphasize once more that this Bill and others now before the House are initiatives of the previous Government.

I simply want to encourage our friends opposite to tell the Canadian people that some of the Bills passed as a conse-