

Income Tax Act

Mr. Saltzman: He just took a breath. Now he has a second wind.

Mr. Lambert (Edmonton West): The hon. member should know that I can shift gears very quickly. The hon. member provided me with an almost unparalleled opportunity for a philosophical dissertation on the difference between the New Democratic economic philosophy and that of the party which I represent. The Minister of Justice is looking at me with a quizzical eye. Is he inviting me to give a dissertation between Liberal economic philosophy and that of the Conservatives?

Mr. Turner (Ottawa-Carleton): I was just going to suggest that if you let out your clutch you would strip those gears.

Some hon. Members: Hear, hear!

Mr. Lambert (Edmonton West): The minister is exhibiting a bit of impatience. We would welcome the minister's legal knowledge or legal opinion. Before he came into politics he was with what is possibly Canada's leading tax advisory firm. It would have been very instructive to have the minister take us through some of the clauses on drafting sections which have been brought forward. The minister can grin. He knows damned well he can't do it.

I now come to the restrictions on small business and the matter of ineligible investments. It must be pointed out that the one quality or characteristic that defines ineligible investment is its ownership at the end of the tax year. It is not what you had six months ago that worries the tax man. It is that which you have at the end of a tax year. This can invite, shall we say,—

[*Translation*]

How would I say that in French—corporations purge themselves at the end of the financial year?

[*English*]

In other words, they purge themselves of anything which would be ineligible. On the other hand, one week thereafter they go right back into the old bath, if that is not mixing metaphors too much. They step out of the dirty water they are supposed to be in, stand lily white on a new bath-mat and say, "Here I am, all nice and clean." As soon as they finish the inspection they go back into their comfortable bathwater, which is not so clean but which from their point of view is much more remunerative. Outside of the fact there might be some pretty substantial brokerage charges on one hand, the cost of getting in and out of these investments, there would be no other disincentive against this move.

• (9:10)

I admit the tax people would be here within eight or nine months, or maybe even less, with a hole-blocking amendment to the act but at the present time the sections in question are deficient to that extent. I shall not say it is wrong to point these things out because various firms of chartered accountants have been quick to advise their clients of them.

The last point with which I should like to deal concerns a restriction which I feel is most amazing, namely, that a company which has been enjoying a small business status

[Mr. Lambert (Edmonton West).]

loses its qualification should it become no longer Canadian-controlled. Where a Canadian-controlled private corporation which has the benefit of the small business deduction ceases to be Canadian-controlled but remains a private corporation, a special tax is exigible equal to 25 per cent of its preferred rate amount minus four times the tax paid on ineligible investments less any refund thereof.

I shall repeat part of that and ask hon. members across the way who happen to be chartered accountants, this question. If a corporation remains a private corporation, there would then be a special tax equal to 25 per cent of its preferred rate minus four times the net tax paid on ineligible investments. Where is the sanctity of this formula? What is the rationale? Why four times the tax paid? Is it an arbitrary figure? I ask the parliamentary secretary to explain. In effect this will mean the recapture of the small business deduction benefit previously received minus the allowance for dividends previously paid.

The Assistant Deputy Chairman: Order. I regret to interrupt the hon. member, but the time allotted to him has expired.

Some hon. Members: Carry on.

The Assistant Deputy Chairman: The unanimous consent of the committee is needed. Is it agreed?

Some hon. Members: Agreed.

Mr. Lambert (Edmonton West): Under this formula, if a private corporation ceases to be Canadian-owned it loses its status of a private corporation and becomes subject to a tax of 25 per cent of its preferred rate as a small business less four times the tax which would be payable on the ineligible investments, less any refunds. What should have been said there is "four times the net tax paid on ineligible investments".

All this means is that small businesses which had previously received certain benefits will be obliged to refund them. This becomes pretty tough, Mr. Chairman. Suppose there has already been a benefit amounting to \$400,000—on the income, but not on taxes. Tax will be 25 per cent. After all, that is what it is, 25 per cent of \$50,000. In 1972 the maximum tax on \$50,000 will be \$12,500; in other words, one-quarter. So one arrives at \$12,500 each year for eight years, which comes to \$100,000. So the penalty imposed upon a Canadian-controlled private corporation which ceases to be Canadian-controlled will be \$100,000 in tax recaptured.

Mr. Paproski: That's not much.

Mr. Lambert (Edmonton West): Not much? One hundred thousand dollars! I can hear a lot of people saying this is a good feature because it will keep small private corporations Canadian-controlled. That may be. But remember, the owners of these Canadian-controlled private corporations may sell by way of merger to another Canadian corporation at which time the tax is not exigible. Control could change voluntarily on sale of control to non-residents or on sale to a Canadian private corporation controlled by non-residents. It could also occur involuntarily on the death of a Canadian controlling shareholder who bequeathed his shares to a non-resident heir.