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TAXATION IN CANADA

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Introduction

Canada is a federal state with a central government and ten provincial governments. In 1867 the principal colonies of the British Crown in North America united to form the nucleus of a new nation and the British North America Act of that year became its written constitution. This statute created a central government with certain powers, while continuing the existence of political subdivisions called provinces with powers of their own.

Under the British North America Act, the Parliament of Canada has the right of raising "money by any mode or system of taxation", while the provincial legislatures are restricted to "direct taxation within the Province in order to the raising of a Revenue for Provincial purposes". Thus the provinces have a right to share only in the field of direct taxation, while the Federal Government is not restricted in any way in matters of taxation. The British North America Act also empowered the provincial legislatures to make laws regarding "municipal institutions in the Province". This means that the municipalities derive their incorporation, with its associated powers, fiscal and otherwise, from the provincial government concerned. Thus, from a practical standpoint, municipalities are also limited to direct taxation.

A direct tax is generally recognized as one "which is demanded from the very person who it is intended or desired should pay it". In essence, this conception has limited the provincial governments to the imposition of income tax, retail sales tax, succession duties and an assortment of other direct levies. In turn, municipalities, acting under the guidance of provincial legislation, tax real estate, water consumption, places of business and, in some cases, retail sales. The Federal Government levies direct taxes on income, on gifts, and on the estates of deceased persons, and indirect taxes such as excise taxes, excise and customs duties, and a sales tax.

The increasing use by both the federal and the provincial governments of their rights in the field of direct taxation in the 1930's resulted in uneconomic duplication and some severe tax levies. Starting in 1941, a series of tax agreements was concluded between the federal and the provincial governments to promote the orderly imposition of direct taxes. The duration of each agreement was normally five years. Under these agreements, the participating provinces undertook, in return for compensation, not to use or permit their municipalities to use certain of the direct taxes. Under the last two agreements, the federal income tax and death tax otherwise payable in non-participating provinces were abated by a fixed percentage to make room for provincial levies.