

Income Tax Act

Amendment (Mr. Benson) agreed to.

The Assistant Deputy Chairman: Shall section 117 as amended carry?

Some hon. Members: Agreed.

Clause 1, section 117, as amended, agreed to.

The Acting Chairman (Mr. Boulanger): Shall section 118 carry?

On Clause 1—Section 118—*General Averaging*

Mr. Lambert (Edmonton West): Section 118 has to do with averaging and it is a new provision. With regard to this principle of averaging, we must recognize that the present Income Tax Act contains a number of averaging provisions which would tend to smooth out the progressive rate structure of a taxpayer who has an unusually high income in the year because he has received certain specified types of income during that year. For instance, if he has been repaid a lump sum out of a pension plan, if he has exercised his rights under an employee stock option plan, or if he has had a property on which he has claimed depreciation, has sold it and there is a recapture of the capital cost allowance, he may then average out. However, there are limitations as to that.

In any event, Bill C-259 will eventually eliminate all the present averaging provisions except those applicable to farmers and fishermen, and it will replace them with two averaging provisions available to all individuals. First, there will be a general averaging provision which applies regardless of the type of income, and second, an income averaging annuity provisions which applies only where special types of income have been received. The use of the latter does not affect the first type. In other words, the utilization of the second form of averaging will not affect the first form because the latter will be instituted directly and automatically by the Department of National Revenue.

• (5:20 p.m.)

The general averaging proposal we are considering in section 118 follows that contained in the white paper. It will apply in any year in which the individual's income is (a) at least 110 per cent of the immediately preceding year, and (b), 120 per cent of the average income for the four immediately preceding years. Let us illustrate this by an example.

Let us assume that in the four preceding years the income was \$30,000 but in the fifth year, for some particular reason, the income goes to \$36,000. Now, let us apply the tests to see whether that \$6,000 could be averaged in any way to smooth out the rather dramatic escalation that there will be in tax due to the progressive tax system. Under the first test, that is, at least 110 per cent of the immediately preceding year's income, 110 per cent would be \$33,000. So therefore since the income is \$36,000 it has passed test (a). Now, let us look at test (b), which says that the income has to be at least 120 per cent of the average income for the four immediately preceding years. If you take 120 per cent of \$30,000 it comes to \$36,000, and so, unfortunately, the income does not exceed the 120 per cent of the average of the four immediately preceding years. There is no averaging excess, and therefore there is

[The Assistant Deputy Chairman.]

no way that the general averaging will be available. So, one has to be very careful about this.

I suppose that to consider this we could go into certain refinements. But in the year of death of a taxpayer, for instance, the averaging formula will be read as if the percentages in what I call (a) and (b)—the (a) being 110 per cent of the preceding year, and the (b) being 120 per cent of the four preceding years—as though those percentages were 100 per cent, and this concession is not available if the executors elect to file a separate return in respect of rights or things receivable at death. This is another very complicated provision of income tax for consultants and auditors. But let us have a look at the transition. This does not come into effect in 1972. The general averaging provision I referred to is not available for 1972, and in the years 1973, 1974 and 1975 the formula will be applied as if condition (b), that is, the 120 per cent of the four immediately preceding years, were to read respectively one, two and three years, so that by 1976 it will be into the full four years.

The existing averaging provisions deal with employee stock options, the sale of inventory and receivables, authors, and combined income and capital receipts, and may be used by individuals for tax years ending in 1972 and 1973. These are matters of detail. The present averaging rules covering recaptured capital cost allowance and incorrect inventory valuation will continue for individuals for the taxation years ending before 1976. Neither the new general averaging provision nor the transitional provisions are available to corporations which, under the present act, can average on certain of these items, such as recaptured capital cost allowance.

It is said that these rules are somewhat more generous than those proposed in the white paper, and to that extent I suppose they are an improvement. Mr. Chairman, it was very easy to improve on the white paper. May I say that I do not know who was responsible for all of these changes. I do not think the finance committee should take any credit here because, frankly, the moves in here are so elaborate and complicated that they go beyond the ken of the average member of this House to thread his way through them, and we would need the advice of tax consultants. So, while we recognize that some of the new sections are going to provide some benefits, all taxpayers should know that there are limits to them. Having said that, Mr. Chairman, I am quite prepared to accept the changes made, to the extent that they are an improvement over the white paper. They are not as generous as individuals might have wanted, but I think they are better than what had originally been offered.

In his statement today to the provincial finance ministers, the Minister of Finance indicated that undoubtedly there would have to be many amendments next year and in the following year to provide for inequities that might show up, and that in any event, if there were inequities that could not be corrected by changes in the Income Tax Act in the immediate future there would always be a form of relief that could be granted under the Financial Administration Act. From past experience, Mr. Chairman, I can say that holding out this hope of relief under the Financial Administration Act is almost like telling an individual he may be forgiven his sins providing he can climb up and see the Lord Almighty to get forgiveness.