

Excise Tax Act

The new mechanism recommended today will make it possible to refer appeals concerning the decisions of the Tariff Board to the Trial Division of the Federal Court. However, if the Minister appeals a decision of the Tariff Board to the Federal Court and if the amount involved does not exceed \$10,000, the Minister will have to pay the expenses incurred by the taxpayer to defend himself in appeal, whatever decision is made. Mr. Speaker, this is a progressive measure because at the present time, the Canadian taxpayer, even the smallest, and even the middle taxpayer since the claim is \$10,000, will see his expenses reduced, because court costs will be borne directly by the Minister himself. Appeals brought before the Federal Appeal Court and the Supreme Court of Canada will be subject to the usual proceedings of these courts.

In some instances, the people the most affected by the Minister's decision to assess the taxes due or to reject a refund application are not directly the taxpayers but rather their customers. In fact, the number of tax exemptions will depend on the use of the goods intended by the buyer for his personal purposes. Sellers usually sell goods at an adjusted price to those customers who are entitled to a tax exemption. Subsequently, sellers do not pay the sales tax or even ask for a tax refund if the tax has already been paid.

This legislation recognizes the unique position of the buyer in those particular instances. When the Minister assesses the seller or rejects a refund application on a sale for which the buyer has asked a tax exemption, we are proposing to allow the buyer to oppose or appeal that decision. Thus, that buyer will be able to make a proper claim for tax purposes and get any refund due. However, those provisions only apply if the seller has yielded his rights to the purchaser or given them up either by prescription or willingly.

This new and equitable system of assessment and reasonable appeal will meet the concerns of many taxpayers who feel disadvantaged and actually follows up the wishes of several task forces from the business community. Its coming introduction is already welcome by all Canadian tax lawyers. However, we are very pleased and we are also waiting for the Opposition Members' congratulations with the fact that the vast majority of Canadian taxpayers will never have to resort to that complex appeal system. We have an excellent indirect tax system and a commendable record of self-assessment of taxpayers and compliance with the existing law.

However, that system is certainly not perfect and some existing provisions require drastic changes for fairness and rationalization purposes. For instance, the present progressive legislation introduces additional changes as regards the refund provisions of the Excise Tax Act.

For several years, the existing Act has allowed taxpayers to claim a sales tax refund over the last four years following the date when the refund becomes payable as far as routine and regular operations are concerned, and within a year for

refunds that proceed from a legal or departmental interpretation of existing tax legislation.

This dual system proved difficult and costly to implement, and this indescribable mess of unnecessary red tape is a source of confusion for the business community.

The changes brought about in this Bill will replace the old provisions with a new system whereby all similar claims arising from transactions subsequent to May 24, 1985, shall be filed within two years following the transaction whatever the circumstances may be. Refund claims arising from transactions previous to May 24, 1985, will still be processed under the current system.

The Bill now before the House also contains provisions to modify other provisions of the Excise Tax Act. Although the number of taxpayers concerned is low, these significant changes are important as they demonstrate to the Canadian people that their rights are fully protected both against dishonest or shrewd taxpayers and against overzealous public servants in quest of rewards. For example, if a taxpayer requested from a customer the payment of a higher sales tax than is required by law, he would be compelled under this Bill to hand over to the Treasury the amount of tax levied in excess thus precluding the taxpayer from taking undue advantage, as my friends in the legal profession would say, from a situation where he is acting as a collector of a tax that does not exist.

The new legislation also contains measures relating to investigation procedures and enforcement of rulings that are similar to the proposed changes to the Income Tax Act. The authority to seize documents in the course of an audit or inspection will be replaced by a provision allowing such documents to be copied as well as the use of the copies as primary evidence in judicial proceedings. Mr. Speaker, this is a much needed update of a part of our judicial system that had become well-nigh obsolete. It is high time that during a preliminary investigation, business people or a company or industry should not be prevented from attending to their business just because they do not have certain papers which are being kept somewhere or being used as evidence in the courts or have been seized or even impounded.

As a result of another proposal, requests for information addressed by Revenue Canada to a third party regarding transactions of unidentified taxpayers will be subject to the same legal requirements that have now been included in the Income Tax Act. In other words, Canadian citizens must be protected against all undue interference with their private lives.

Similarly, the administrative provisions of the Excise Act have recently been subjected to a strict and thorough review, and as a result, this legislation will also inject a more reasonable attitude into procedures being used by Government, that faceless monster, in its dealings with the average citizen.