

The next item I want to deal with concerns public entertainers. Income derived by public entertainers such as theatre, motion picture, radio or television artistes, and musicians, and by athletes from their personal activities as such may be taxed in the territory where such activities are performed. Of course that means that if it were a Canadian athlete performing professionally in the U.K., he would be subject to tax on the earnings or remuneration that he received for that activity. Being a resident of Canada, he would have to bring the income home and report it in his income in Canada, but under the provisions he would be entitled to a credit for the tax paid elsewhere, subject to the limitation that you will never get a credit for more tax than you would otherwise have to pay.

On the question of pensions, I referred you to the debate in this house in May of last year, so I am not going to say much about that subject. However, I will mention that any pension or annuity derived from sources in one country by an individual who is a resident of the other country shall be exempt from tax in the first-mentioned country. It is the residence of the pensioner or annuitant which determines the country that taxes such income. That is the general rule. This new rule is that the pensioner is taxable where he is residing. The old rule used to be that the pensioner was taxable by the paying country, the country that was paying the pension.

Particular situations are dealt with in a number of the articles in the tax convention, and as these pertain to particular situations I think it is quite unnecessary for me to go into that kind of detail, although if there are any questions in connection with them I am ready to do so. Some of those particular situations even deal with individuals in one country who are performing or discharging government functions in the other country; and it also deals with the spouse or other dependent of such person, either before or after the critical date which decides under which law—either the old 1946 convention or the present one—the tax is received.

However, there is a saving clause in all this, that the pensioner really has the opportunity in those circumstances to determine which way he may go, and he can elect the way which will impose the least tax on him. At the present time, having regard to the rate of tax in the U.K. and the rate of tax here, wherever election is possible I think that for the time being the pensioner might elect to be subject to the Canadian rate.

Capital gains are now covered in the United Kingdom legislation and, therefore, there are incorporated into this tax convention provisions in relation to capital gains and income from the direct use, letting or use in any other form of immovable property. It is taxed in the territory where located and where such income is derived.

As to movable property, if it forms part of the business property of a permanent establishment which an enterprise in one territory has in the other territory—for instance, that Canada has in the United Kingdom—it is taxable in the territory where located, but you exclude from that all gains on the sale of ships and aircraft in international traffic and movable property pertaining to its operation which are taxable only in the home territory. Beyond that, the alienation of movable property, other than described above, is taxable in the territory of which the alienator is resident.

There are one or two other things which are reasonably new.

Hon. Mr. Connolly (Ottawa West): Might I ask a question?

Hon. Mr. Hayden: Certainly.

Hon. Mr. Connolly (Ottawa West): Does that mean that a resident of the U.K., who made a capital gain on the sale of land in Canada, would be taxable on the profit that arose from that sale?

Hon. Mr. Hayden: Where, in Canada?

Hon. Mr. Connolly (Ottawa West): Yes.

Hon. Mr. Hayden: No, it would have to be income under Canadian law, but he would be accountable in the country of his residence, which is the U.K. This does not make anything taxable in Canada, unless by the law of Canada it is income in Canada.

We have continued the principle of a permanent establishment in relation to business and industrial profits, and you will find a whole page, or perhaps two pages, in the U.K. tax convention, and indeed in the tax conventions other than with the United States, illustrating the factors which will determine whether an enterprise in Canada has a permanent establishment in the U.K.

If it has a permanent establishment in the U.K., as a general principle it will be taxable upon the profits from that operation in the U.K. But the basis for taxation will be as