

Income Tax

Mr. Hawkes: Can the Minister tell us why he personally supports it? The only reason given at this point is that it is a 1969 law. Tell me where the logic is in the fact that if I stay with the same company, I do not surrender; if I switch companies, if I go to a more efficient company, I have to pay tax because there is a definition which says I surrendered. What did I surrender?

Mr. Cosgrove: The difficulty is, Mr. Chairman, that the Government has no control over what the person does upon receipt of the money surrendered.

Mr. Hawkes: If it stays in the same company, the Government controls it? Is that the implication?

Mr. Cosgrove: Yes, Mr. Chairman. Provisions of the Act before us require that records be kept, that a person who holds a policy which falls within the provisions of the Act and the amendments before us would have to declare that as income if surrendered.

Mr. Hawkes: Let me go back to an issue raised the other day. To refresh the Minister's memory, matrimonial law in Canada is changing in the direction of a split of assets. On divorce, the courts will order a split of assets. Forty per cent of Canadian marriages are at risk, according to the most recent statistics. In other words, 40 per cent of the families in Canada are going to have to go through a court process in which assets have to be split.

Now, what we are doing here in law, as I understand it—

Mr. Fisher: We are not changing the practices.

Mr. Hawkes:—would be to require of Canadians in the middle of a divorce, when expenses are high, when emotional costs are high, that assets of this kind have to be split. The Government of Canada is then going to say they were surrendered, tax has to be paid, and there will be smaller amounts left for investment. In other words, the assets of a married couple will be reduced as a consequence of this law. Is that correct?

Mr. Cosgrove: Mr. Chairman, there have been some media reports about studies which presently show the incidence of success in marriage is deteriorating. My personal hope would be that this will not be a long-term experience, and therefore I do not accept the assumption that this is what will happen in the future, as the Hon. Member has done.

Secondly, as I indicated, the law governing how assets are split or whether they are to be split on dissolution of a marriage is a matter of provincial jurisdiction. The operation of the courts in that area is a matter of provincial jurisdiction, and for anyone in this House to comment on it would be pure hypothesis.

Mr. Hawkes: Mr. Chairman, I am not asking the Minister to comment on what the courts are likely to do. It is a known fact that the courts are ordering asset splits. I am asking the Minister, where a court orders a whole life policy asset to be

split, one which has been in place for ten years, and those people get the money from the policy split, first of all will that be viewed as a surrender? Let us go back to his term. Will that be a surrender? If I have to cancel the policy in order to split it, will it immediately be the case that I have surrendered it and therefore incurred a tax liability?

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Mr. Cosgrove: The Hon. Member prefaces his remarks with "if", so it is truly hypothetical. I do not think it is terribly useful to try to prejudge or guess what any provincial judge is going to rule anywhere in the country.

Mr. Hawkes: At the ten-year stage of a 20-year policy, if I choose to cash it in and give half to my wife or to my ex-wife, will I have to pay tax?

Mr. Cosgrove: In that circumstance the amount taxable would be to the extent that the surrender value exceeds premiums. I would remind the Hon. Member that in that circumstance the parties would have available the \$1,000 investment income exclusion.

Mr. Hawkes: Did the Minister just say yes, I would have to pay tax?

Mr. Cosgrove: I will repeat my answer. The tax would be to the extent that the surrender value exceeds the premiums. I would remind the Hon. Member that in the case he cites, the \$1,000 investment income exclusion would be available.

Mr. Hawkes: In other words, the Minister is saying that if I have some other assets or income of that kind, the answer is yes. If my income does not exceed my deductions I do not have to pay tax, which is the basic principle of the tax system. I do not understand the reluctance to say yes.

Would the Minister consider an amendment to this Clause to give some relief to those people who are unfortunate enough to encounter court-ordered asset splitting in this area?

Mr. Cosgrove: No, Mr. Chairman. We believe that the provisions of the Act that deal generally with the disposition of assets, however ruled by whatever provincial jurisdiction, are sufficient.

The Deputy Chairman: Order, please. The time allotted to the Hon. Member for Calgary West has expired. I understand that the Parliamentary Secretary to the Minister of Finance has a point of order.

Mr. Fisher: Mr. Chairman, I understand that in order to clarify matters you would like the list of Clauses and Subclauses that we are dealing with read into the record.

I understand that we are dealing with Clause 4 and an amendment to it; Clause 5 and an amendment; Clause 10; Clause 12(1), (5), (8), (9), and that there is an amendment to Subclause (9); Clause 18(1); Clause 22(2), (4), (10), (11) and (13) and that there are amendments to Clause 22, Subclauses (11) and (13); Clause 26(4) with an amendment; Clause