

Income Tax Act

in which those extra deductions, in turn, have resulted from changes in the domestic situation of the taxpayer. There might be extra charitable donations, and so on. These would be matters over which the taxpayer has some control and therefore he could minimize, in many cases, an overpayment by filing an up to date information sheet with his employer.

It does not seem appropriate that the general revenue should meet that particular interest rate in those cases. I could not agree more that the same interest rate should apply in cases where the minister has demanded more tax and where the taxpayer has successfully refuted that attempt through an appeal. The case of the taxpayer who, through his own action, has paid more tax than he ought to have paid is not comparable to the case of the taxpayer who has refuted the demand for more tax, and the hon. member's amendment would not be appropriate.

Amendment (Mr. Downey) negatived: yeas, 18; nays, 35.

The Assistant Deputy Chairman: I declare the amendment lost.

Clause 1—section 164, agreed to.

On clause 1—section 165: *Objections to assessment*

Mr. Aiken: Mr. Chairman, may I ask a question about section 165(3)(b). Where there are several appeals of a similar type before the department, apparently taxpayers may file copies of the notice of objection and the appeal can be entered with the minister's consent. Why has it been inserted here that the minister must consent? I do not think, if a taxpayer wants his case to be considered again, he should need the consent of the minister. In many cases one cannot do anything without ministerial consent, and this is another situation like that. Why was it necessary to say that the minister must consent to the filing of an appeal?

Mr. Mahoney: Mr. Chairman, the reason is to allow the appealing taxpayer to go directly to court, that is either to the Tax Appeal Board or to the federal court, as he elects, without waiting for the minister's formal reply to his notice of objection. That would arise in cases where, (a) the minister and the taxpayer agree that there is a bona fide case of dispute to be dealt with before the appeal tribunal and, (b) where the best interests of all would be served if the case were dealt with expeditiously and if certain preliminary formalities otherwise necessary were waived.

Mr. Aiken: Mr. Chairman, I wish to ask another question about subsection (7) and specifically about lines 27 and 28 which cover the situation in which no notice of objection is required with respect to reassessment. The words I am concerned about are, "Where . . . the Minister . . . makes an additional assessment in respect thereof, . . .". It is not clear from this section or from any other part of the legislation in what sort of situation the minister can make an additional assessment. Could that be clarified?

Mr. Mahoney: Mr. Chairman, this situation would arise in cases where the new assessment was issued after the matter was already before the court. This would allow the revision of the assessment without it being necessary to go

[Mr. Mahoney.]

back over the ground and recommence the appeal in court.

Mr. Hogarth: Mr. Chairman, one comment I wish to make about section 165 is this: the notice of objection must be made in prescribed form. On the other hand, subsection 6 says that the minister may accept a notice of objection despite the fact that it was not served in duplicate or in the manner required by subsection (2). I understand that the intention, when the act was originally enacted, was to make procedures for going before the Tax Appeal Board informal. Surely, we could add words to subsection (6) to provide that the minister may accept a notice that is not in the prescribed form so that the informality of the procedure may be continued. I would like to propose an amendment to subsection 6 to the effect that there be added after the last line the words:

• (5:40 p.m.)

—or is not in the prescribed form

Mr. Mahoney: I wonder if the hon. member can give some indication of what he means. How could the minister determine whether he had a notice of objection or a letter of complaint in this particular situation? The minister has to have some ground rules in this particular instance. Frankly, I question very much whether the particular amendment would be administratively feasible at least.

The Assistant Deputy Chairman: The hon. member for Parry Sound-Muskoka.

Mr. Hogarth: I have not moved that far east, Mr. Chairman. The point is if a taxpayer, 89 days after the assessment came to him, wanted to object, surely he could write a letter saying that he objects to the assessment and wants to appeal to the Tax Appeal Board. Because of the fact he did not have a prescribed form in front of him, he would be out of court. He might not have a form. Whether or not it was a notice of objection would be a question of fact for the tribunal to determine. The minister could say the letter he wrote was not a letter of objection but merely a letter of complaint. That is a question for the tribunal to determine. I suggest that to require the taxpayer to file a particular form is very dangerous, keeping in mind the purpose of this particular provision.

Mr. Mahoney: Mr. Chairman, the particular instance that the hon. member cited would certainly be in the prescribed form because it clearly states that it is a notice of objection. I call to the hon. member's attention that it must be in a prescribed form, not that it be on a form supplied by the department. It must be in a form that clearly stipulates that it is an objection. It can be a letter if it clearly states the intent of the writer. The actual forms are available at district taxation offices throughout the country, but I am advised that the particular example which the hon. member gave would indeed be an objection in the prescribed form.

Mr. Smerchanski: Mr. Chairman, I would like a little more clarification of lines 34, 35 and 36 on page 439. What happens if the taxpayer waives his right for the reconsideration of the assessment and if the minister does not consent? Is it the intention that the minister will automati-