

Income Tax Act and Estate Tax Act

Mr. Gillespie: The minister has recognized some of the difficulties likely to occur. He has provided for executors of estates and for estates generally to choose as a matter of right the most favourable exemption schedules up until July 31 of this year. I shall ask the minister to give further consideration to this area of the matter, since it needs clarifying. There may well be estates that, because of prevailing circumstances, cannot take advantage of existing provisions. I am, of course, referring to the type of situation we have here in Ontario. In Ontario we shall have to wait for the provincial government to amend its succession duty act to make it compatible with the federal Estates Tax Act, so that possible benefits accruing under the Estate Tax Act can flow to the people of Ontario.

Mr. Stanfield: Will the hon. member permit a question.

Mr. Gillespie: I wonder if the hon. member would ask his question when I have finished my remarks.

The drawing of wills is a complicated matter, and it is not always easy for one to obtain the advice one needs. I suggest we need to give further consideration to this point as July 31 may come around too soon for some.

The second point we ought to consider is that some people who have drawn wills may now be mentally incapacitated or infirm in some way and not able to change their wills. They may not be able to derive benefits from the new act. It seems to me that we ought to consider this point also.

Mr. Stanfield: They are lucky. They will never know about the act.

Mr. Gillespie: I have referred to estate planning. I should like to draw your attention, Mr. Speaker, to a number of provisions in the bill and to comment on their implications as I see them. The minister has said on a number of occasions that gifts up to \$2,000 a year by each parent to each child are to be tax free. That is to say, if you have a normal family of a mother, father and children, \$4,000 each year may be transferred to each child each year until the death of the first partner. After that, \$2,000 a year may continue to be passed on tax free. I wish to make two points clear. First of all, over a ten year period this provides an opportunity for parents to pass to each child \$40,000.

Mr. Peters: I don't know anybody with that much to pass.

Mr. Gillespie: Secondly, the transfer does not have to be in cash. If a parent makes gifts exceeding \$2,000 a year to a child that parent is liable to pay gift tax on the cumulative total of such taxable gifts which are over and above the basic minimum I have just referred to. Through estate planning, it is possible to split estates and to minimize the effects of gift tax liability. For example, if one looks at the schedule one will see that accumulated gifts of \$200,000 would be taxable at \$71,500 and at the marginal rate thereafter of 75 per cent. If the gifts were split, and made by husband and wife, that is if they each gave \$100,000, the tax is \$21,250 for each parent, for a total of \$42,500, which is \$30,000 less than the figure I mentioned previously. The marginal rate also is only 36 per cent, half the marginal rate on the unsplit \$200,000 accumulated gift.

• (9:20 p.m.)

May I refer quickly to other opportunities allowing for the transfer of assets to those of younger generations. I have already referred to the exemptions for younger children and to the fact that for each child under 11 years old the exemption is now \$35,000. I referred in my example to a family of four children under the age of 10. The total exemption for that family would be \$160,000. Similarly, the exemption in respect of disabled children has been considerably increased. An adult child aged 41, for instance, who is dependent because of infirmity would qualify for an exemption of \$40,000, and provision is made for exemptions to dependant adult children up to \$80,000. Surely, this is a compassionate move. For adult children not so dependent, the exemption is \$10,000. I have referred also to the provision for the payment of estate tax over a period of five years in six equal instalments. This will enable estate planners to use much more latitude when considering ways and means of financing the tax, because it will take the heat off the forced sale.

One further point on estate planning: It may be argued that only those who are wealthy can afford the kind of tax advice which will enable them to undertake estate planning. I would say that anyone who has an estate of \$50,000, or is likely to have such an estate, is quite able to afford the kind of tax advice needed to minimize the effect of estate taxation. The fact is that anyone who has an estate worth more than \$50,000 should seek