

Adjournment Debate

ploughs the proceeds of that sale into new land within certain time limits.

It should be expressed at the outset that farmers in western Canada are continually buying and selling land. It may be that a piece of land becomes available closer to home, and in order to acquire that land the farmer may sell other land to finance the purchase. Or an older farmer may retire and a young person may decide to purchase the land and dispose of other ground. Indeed, neighbours may decide that it would be mutually advantageous to exchange parcels of land. In any event, there are countless situations and innumerable transactions.

The farm community understand in a general way that if land is sold, no capital gains will be payable as long as replacement property of equal or greater value is acquired. That is what the farmers understand, and I suggest that is the spirit and intent of Section 44.

The problem arises in the handling of that section by Revenue Canada officials. Like most sections of the Act, Section 44 is rather difficult to read. However, the key operative words are: "If he so elects". The taxpayer is given credit for the replacement property "if he so elects". Unfortunately, neither the Income Tax Act nor its regulations provide for an election form—a form on which whatever information Revenue Canada requires about the sale and replacement purchase could be detailed.

There are other elective sections in the Income Tax Act. Section 85 is a good example. That section provides for tax-free roll-overs of assets from individuals to the holding companies. There is a form prescribed for that election by Revenue Canada, and all practitioners adhere to it.

However, in Section 44 we have a vague and undefined situation. At the very least it creates doubt. I would suggest that that doubt should be resolved in favour of the taxpayer.

It appears that the previous Liberal Government, in its lust for money, instructed Revenue Canada to persecute those unfortunates who sold land after 1978 and replaced that land but did not file a sufficient election that is, an election sufficient in the minds of Revenue Canada officials. Today, most tax practitioners are tuned into Section 44. They know that some piece of paper should be attached to the vendor's income tax form whereby he would claim to elect that the new land would replace the old. Unfortunately, six or seven years ago that requirement was not as well known. Many tax practitioners, like their clients, simply understood the basic intent, that there would be no taxable gain on the sale if land of equal or greater value was purchased. Surely, the vendor of land elects, within the spirit and intent of Section 44, when in fact he replaces the land he sold with other land. When legal agreements are signed, when transfers of title are registered, and when cheques for the purchase price are issued, surely the taxpayer has elected in no uncertain terms.

In any event, it appears that part of the hidden agenda of the MacEachen Budget of 1981 was the instruction to Revenue Canada officials to grab as much tax money as possible

without having regard to any standard of fairness or decency. By way of example, and there are plenty of examples, I would like to cite the circumstances of Jacob Schroeder of Gouldtown, Saskatchewan. He is a farmer in his fifties who in 1979 sold two parcels of land for \$172,000. In the same year, he purchased replacement land for \$226,000. Mr. Schroeder and his tax preparer quite reasonably assumed that the purchase of the new land would wash out any capital gains on the sale. But that was not to be. In March of 1983, Revenue Canada reassessed Mr. Schroeder's 1979 tax return to include additional taxable income of \$58,000 for the capital gains. Revenue Canada refused to give him credit for the purchase of land because it said he did not file a sufficient election. He did not elect to its satisfaction. Mr. Schroeder, who made \$417 in 1980 and who lost money farming in 1981 and 1982, was faced in 1983 with a bill of some \$25,000 for income tax and another \$10,000 for interest. That amounted to a bill of \$35,000 to a man of modest means who simply sold land and bought some other land.

● (1825)

In its zeal to collect these funds, and in spite of a notice of objection having been filed, Revenue Canada served 21 third party notices—which are the same as garnishee summonses—to every bank, credit union, grain buyer and livestock buyer within 60 miles in every direction. The Schroeders could not even buy heating fuel. The man had to go to the credit union and take out a second mortgage in order to pay Revenue Canada. He suffered ill health as a result of this kind of persecution.

I am relieved that this kind of mean, nasty, aggressive and confrontational collection procedure is being replaced as a result of the attitude of our new Government and that the Minister of National Revenue (Mr. Beatty) also understands these things. However, Mr. Speaker, Revenue Canada rejected Mr. Schroeder's notice of objection on grounds of insufficient election. It is evident, therefore, that Revenue Canada officials still refused to place a fair and reasonable interpretation on the Section 44 election. They refuse to look at the facts and refuse to rebate the funds to Schroeder and other people who were similarly affected. Surely the fact of concrete evidence of repurchase of land, the land title transfers, the issuance of cheques, does constitute an election. Simple justice and common decency, Mr. Speaker, dictate that the benefits of any doubt be extended to those who in good faith have actually replaced their property. There is no magic to it.

I simply want to appeal to the Minister of National Revenue to do three things; first, to redress the wrongs done to those already affected; second, to instruct Revenue Canada officials to take a different attitude to Section 44 elections and, third, to recommend to the Department of Finance that this particular section of the Act be amended.

Mr. Pierre H. Vincent (Parliamentary Secretary to Minister of National Revenue and Canada Post): I would like to thank the Hon. Member for raising this important issue before the House, an issue, Mr. Speaker, which is of particular