

Sales Tax on Equipment

(a) has been purchased or imported by a person who is the first purchaser or importer in Canada of the article for his own use and who purchased or imported the article for a use rendering such purchase or importation exempt from tax under this Part or

(b) has been purchased as described in subsection 44(2); the following rules apply—

(c) if within five years of such purchase or importation the article is applied by the purchaser or importer to any use (other than of a casual nature) for which it could not originally have been purchased or imported by the purchaser or importer exempt from tax under this Part, the purchaser or importer shall be deemed to have sold the article at the time of its application to that use and there shall be imposed, levied and collected a consumption or sales tax of 12 per cent on the value of the article at the time of its application to that use, payable by the purchaser or importer at that time;—

The motion of the hon. member urges that any tax collected from municipalities under section 27(4) of the Excise Tax Act in the five years preceding 1972 be refunded to them, and that any tax collected under this subsection in future years also be given back. Mr. Speaker, this subsection was enacted in 1962 to cover the situation where motor vehicles and tractors, allegedly purchased for tax exempt purposes, are diverted to a taxable use shortly after having been acquired.

Diversion to a taxable use includes a sale to someone not entitled to purchase free of sales tax. The rules apply for a period of five years from the date of the first purchase, after which the vehicles concerned can be diverted to taxable use without incurring sales tax liability. Under the wording of section 27(4) diversion of equipment, purchased tax exempt by municipalities, to non-exempt use cannot be permitted without incurring sales tax liability. However, the subsection makes an exception for diversions of a "casual" nature, and in the administration of the Excise Tax Act the Department of National Revenue has recognized that diversions of a casual nature do occur. From a practical point of view, such diversions are generally overlooked and payments of sales tax are not required.

I think there was some unhappiness when the Department of National Revenue some time ago requested the payment of sales tax on equipment diverted to taxable use in certain municipalities, where the municipalities in question advertised in local newspapers that they were prepared to do private contracting work with municipal equipment. It was felt by the department that this was certainly outside the definition of "casual." Diversions of a casual nature can include such operations as excavation of dugouts, ditching outside boundaries of a road allowance, street and culvert repairs, brush clearing, snow removal and so on.

In effect the motion proposes that municipalities be permitted to employ road making and road cleaning machinery and equipment purchases free of sales tax in any manner they see fit without incurring tax liability.

It should be noted that section 27(4) refers to any person who purchases or imports the equipment in question for tax exempt purposes and is not exclusively related to municipal purchases. The proposal of the hon. member would give preferred treatment to municipalities and would, no doubt, create pressure to extend similar treatment to other persons in analagous positions, for exam-

[Mr. Buchanan.]

ple, provincial governments, irrigation districts, and so on.

The present sales tax exemption for road making machinery acquired by municipalities for their own use is sometimes strongly criticized by private contractors. These contractors may not purchase equipment free of sales tax and this may put them at a disadvantage when competing for work which the municipalities may decide to do with their own tax-free equipment. If this motion were accepted and municipalities were free to use tax free equipment in any way they wished, the unfair situation with respect to private contractors would be made much worse.

The Excise Tax Act exempts from sales tax a comprehensive list of articles and materials sold to or imported by municipalities for their own use and not for resale. Numerous requests have been received that a more general approach be adopted and that all municipal purchases be made exempt from sales tax. Although the motion does not refer to broadening the current exemptions through amending the Excise Tax Act, the effect of providing a remission along the lines suggested in the motion would be to extend significantly the current concessions afforded to municipalities.

It must be assumed that tax sales exemptions for municipalities exist because of the desire of the federal government to provide indirect financial assistance to local governments. Municipalities fall under the legislative jurisdiction of the provinces and it is sometimes questioned whether the federal government should come directly to their assistance. In this regard, it might be noted that the provinces provide little assistance to the municipalities by way of sales tax exemptions.

Mr. Max Saltsman (Waterloo): Mr. Speaker, I am very pleased to support the motion that is before the House. I will speak briefly, not because there is not a great deal to say on the subject but because I know there are many hon. members who wish to participate in the debate. Because of the nature of the subject matter of the motion, I would hope that it will not meet the usual fate of private members' motions, but will be referred to a committee for further study.

The motion is interesting in that a Conservative member is asking that we give public enterprise, in the form of municipalities, a break, or at least that we give them the benefit of the doubt. But members of the Liberal party, with their ideological hand-up on free enterprise, are concerned about the results of acceptance of this motion. They are concerned that private contractors might not like municipalities becoming involved in private enterprise. They are so hung-up on the private enterprise system that they are not prepared to give the benefit of the doubt to municipalities.

Mr. Guay (St. Boniface): On a point of order—

[Translation]

The Acting Speaker (Mr. Laniel): Is the hon. member for St. Boniface rising on a question of privilege or on a point of order?