

Estate Tax Act

clause. It will apparently bring into taxation benefits to the estate of a deceased under an insurance policy even if the policy was taken out by an employer of the deceased. This seems to be a reasonable conclusion but I wonder why the amendment is necessary. What is the conflict between the original law and this proposal?

Mr. Fleming (Eglinton): Mr. Chairman, the purpose of this clause is to ensure that death benefits arising out of employment which are now generally subject to estate tax will be taxable when they are in the form of life insurance payable to a beneficiary of the deceased. Although life insurance owned by the deceased at the time of his death is taxable, life insurance owned by the employer on the life of the deceased—for example under a company group insurance scheme—may at present escape tax even if payable to a beneficiary of the deceased. The proposed amendment will rectify this anomaly and in this respect will close what is a very obvious loophole.

Clause agreed to.

On clause 2—*Devise or bequest subject to provision against lapse.*

Mr. Benidickson: Mr. Chairman, there is a reference here to something with which I confess I am not familiar. It refers to the regulations. Before we undertake debate on this clause would the minister indicate to the committee what the regulations are that are applicable to this clause?

Mr. Fleming (Eglinton): Those are the regulations, Mr. Chairman, which apply to the calculation of present value of future periodic payments and are based upon the tables in relation to expectation of life.

Mr. Benidickson: I believe this relates to the subject of partial consideration, in other words an agreement prior to death to transfer certain assets in consideration of an agreement that an annuity will be paid. Am I right? What in effect is the difference? Is the difference mainly that the existing law omits reference to interest on the value of the payments that may have been received prior to death and that henceforth there will be regard not only to an arbitrary 5 per cent valuation on the annuity but also regard to the use of the amount of money that was received as an annuity?

Mr. Fleming (Eglinton): It is more than the interpretation placed upon it by the hon. member. The difference that the clause creates is clearly stated in the explanatory note, particularly the earlier portion of it. The explanatory note reads as follows:

[Mr. Benidickson.]

This amendment changes the method of determining the value of the consideration for property disposed of by the deceased during his lifetime in consideration of an annuity where the present value of the annuity at the date of the disposition exceeds the present value at the same date of a notional annuity computed on the basis of 5 per cent of the value of the property disposed of.

Mr. Benidickson: May I interrupt the minister to ask if the notional value is a 5 per cent interest calculation?

Mr. Fleming (Eglinton): It is the following words that illustrate the difference:

Under the existing method the consideration is the present value of the excess.

In other words the difference between the two calculations mentioned in the first sentence is that under the new method the consideration, as the explanatory note states:

—is the sum of the amounts of the excess of the actual payment made to the deceased over the notional annuity each year from the date of the commencement of the annuity to the date of his death, plus interest on those amounts.

The interest is a factor but that is not the entire difference between the two methods of calculation.

Mr. Benidickson: Mr. Chairman, may I call it six o'clock?

The Chairman: Shall clause 2 carry?

Mr. Benidickson: I shall probably have some further remarks to make, Mr. Chairman.

At six o'clock the committee took recess.

AFTER RECESS

The committee resumed at 8 p.m.

The Chairman: Shall clause 2 carry?

Clause agreed to.

Clause 3 agreed to.

On clause 4—*Gifts subject to power to appoint or appropriate.*

Mr. Fleming (Eglinton): Mr. Chairman, there is a slight amendment to clause 4 of which I have given notice to hon. gentlemen opposite. I would ask my colleague, the Minister of Mines and Technical Surveys, to move the amendment. It is in these words:

That Bill C-65, an act to amend the Estate Tax Act, be amended by striking out lines five and six on page 3 thereof and substituting therefor the following:

"all of the resources of which, if any, were devoted to charitable activities carried on or to be carried on by it or to the".

Mr. Comtois: I so move.

Mr. Fleming (Eglinton): Briefly, Mr. Chairman, the amendment would insert in line five the words "if any" after the word