

Income Tax Act

be ruined. There is no defence for it. Blood ran up and down my spine when I heard about this case. I am sure the minister will feel the same way; I certainly hope so.

Here is the story, as briefly as possible. It involves a farmer who had five sons. They were all of mature age, and all of them wanted to be farmers. The father did not have enough money to set his sons up with separate machinery, nor did he have enough money to turn the land over to them. This is because he did not have the money to pay the capital gains tax. This case, if followed through, illustrates what the hon. member for Lethbridge-Foothills was saying in the House the other day. It has to do with the ill effects of capital gains.

The farmer went to a law firm for advice. They advised him to set up a family corporation. These events took place in 1974 and have been related to quite a few people in this country. They were advised to set up a family corporation and then to custom farm the land in order that the sons could utilize the father's machinery. The father could not afford to put his land into the corporation, since he had to have something to live on. So he did not put his land into the corporation.

• (2130)

They began to custom farm with the father's machinery. The five sons intended gradually to build up an estate and become farmers in their own right. All this occurred in 1974. The farm went in the hole for three years. In one year it lost \$50,000, which is not unusual. The best farm in the country can have a bad year. I have seen it happen many times. Of course, they can also have good breaks and earn a lot of money. But in this instance the family suffered bad weather and so on and, as a result, lost \$50,000.

Hon. members can imagine how the members of this family felt when suddenly they received a notice from the Department of National Revenue with regard to their 1975, 1976 and 1977 income tax returns. The department said that the family was deemed to have disposed of an intangible property, that being the right to use the farm land. Consequently, the family was deemed to have received proceeds equal to fair market value from the corporation. The fact of the matter was that the corporation had not made any money. However, it was deemed to have used this intangible asset, the land.

As a result, the family was assessed for each of the three sections of land \$32,800 for each year, although it had made no money. They had gone into the hole because they had used their machinery in the corporation on what is called intangible property and were deemed to have made so much money that they must pay more than \$95,000 in taxes. I can understand why the minister would shake his head, because it is absolutely astounding.

I decided to look at the act in an effort to understand the situation. Section 69 of the act, which is not amended in this legislation, says that except as otherwise provided in the act, where a taxpayer has acquired anything from a person with whom he was not dealing at arm's length at an amount in excess of fair market value thereof at the time he so acquired it, he shall be deemed to have acquired it at that fair market

value. One would think that if the farmer was deemed to have earned this income, then surely it would be deemed that there were certain expenses but, oh no, he cannot deem that.

The family appealed the decision. The inspector general said that it could not be deemed that there were any expenses, merely that there was income from a farm which went in the hole.

Mr. Munro (Esquimalt-Saanich): You're deemed if you do and you're deemed if you don't.

Mr. Taylor: The matter was taken to the appeal board, and it took the position that, because of the way in which the act was written, it had no power to change the situation. One wonders why one would take the time to go before an appeal board, when it cannot change anything. One official of the department said that the tax laws have been gradually changing—and the minister would know about that better than I, because I have not been here for very long—since 1970 with a view to so-called deemed income assessment and that eventually everyone would be assessed accordingly one way or another. I am sure that no government would want to put farmers out of business, but this department official suggested that this was the plan.

The total deemed income for this farm for 1977 was \$161,000, without a dollar of offsetting expenses. If income is to be deemed, then anyone who has ever stood on an acre of land, let alone farmed it, would know that there must be expenses in order to earn that much money. The situation was even more aggravating because the farm had lost money in those years.

To make matters worse, the sons had borrowed money to buy machinery. As it was insisted that the loans be private, National Revenue attacked each boy and each boy began to get it in the neck. I have here a letter which one of the boys received.

Mr. Munro (Esquimalt-Saanich): He was deemed, too.

Mr. Taylor: Yes, he was deemed too. According to this letter, the boy would be charged almost \$5,000, even though he was not making any money.

The Chairman: I regret to interrupt the hon. member, but his allotted time has expired. He may continue with the unanimous consent of the House. Is there unanimous consent?

Some hon. Members: Agreed.

Mr. Taylor: I thank hon. members. The matter was appealed, and corrective action had begun when the PC government came into office. However, the matter was not completed, and the case was brought to me after the last election. I referred it to the Minister of National Revenue, and I appreciate the understanding which he showed. Although the minister did not say so, I am sure that he had the same feelings as I, that this situation should not occur.

To make a sad story happy, the department was ordered, I believe, by the minister, to repay all the money which it had