

November 8, 2006

Information about Ways and Means Motion to amend the Income Tax Act

The business of “Ways and Means” is the process by which the government sets out its economic policy (through the presentation of a Budget) and obtains parliamentary approval to raise the necessary revenues (through taxation). A principle fundamental to the Ways and Means process is the requirement that taxation originate in the House of Commons.

The government has given notice and placed on the Order Paper, its intent to table a Ways and Means motion to amend the Income Tax Act:

Ways and Means

No. 9 — October 31, 2006 — The Leader of the Government in the House of Commons and Minister for Democratic Reform — Consideration of a Ways and Means motion to amend the Income Tax Act. — *Sessional Paper No. 8570-391-12, tabled on Tuesday, October 31, 2006.*

The Ways and Means motion passed on November 7, 2006 in the House of Commons. As expected, the NDP and Bloc Québécois supported the government (along with Garth Turner who was recently expelled from the Conservative caucus). The Liberals voted against the motion. Vote breakdown:

YEAS - 184 (Conservatives, Bloc, NDP, and Garth Turner)
NAYS - 82 (Liberals)

The Motion

Notice of Ways and Means Motion to Amend the Income Tax Act

That it is expedient to amend the *Income Tax Act*, in accordance with proposals announced by the Minister of Finance on October 31, 2006, to uphold the value of fairness for Canadians by:

- levelling the playing field between trusts and partnerships and corporations,
- ensuring that taxes are not unfairly shifted onto the shoulders of Canadian taxpayers, especially Canadian families,
- strengthening Canada’s social security system for pensioners and seniors,
- helping corporations make choices that are consistent with economic growth and competitiveness,
- bringing Canada’s approach to the taxation of trusts and partnerships back in line with other jurisdictions,

and that the amendments made to the Act to these ends provide among other things:

1. That the Distribution Tax apply to certain distributions from publicly-traded trusts and publicly-traded partnerships, with effect
 - (a) for any trust or partnership in which investments are publicly traded before November 2006, for taxation years that end in or after 2011, and
 - (b) for any trust or partnership in which investments are first publicly traded after October 2006, for the first taxation year of the trust or partnership that ends after 2006 (or its first taxation year in which investments in it are publicly traded, if later) and subsequent taxation years,
2. That the general corporate income tax rate be reduced by one-half of one percentage point for taxation years that end on or after January 1, 2011, with prorating for taxation years that include that date,
3. That tax relief be provided to low- and middle-income seniors by increasing the amount on which the age credit is computed to \$5,066 from \$4,066 effective January 1, 2006, and
4. That targeted assistance be provided to pensioners and seniors by allowing an individual resident in Canada to allocate to the individual's resident spouse or common-law partner up to one half of the individual's pension income that qualifies for the pension income tax credit,

and that such other measures be introduced as may be required to give effect to the measures described above.

(Sessional Paper – October 31, 2006)

How It Works

Ways and Means Motions

Before the government can table legislation that deals with taxation (like that to implement changes to the taxation of income trusts), a Ways and Means motion must first be “concurrent in” (i.e.: passed in the House).

Ways and Means motions do not go through the same process as legislation. A minister may table a notice of a Ways and Means motion at any time during a sitting. When the Order of the Day is called, a minister moves that the motion be concurrent in. The motion for concurrence must then be decided immediately, without debate or amendment.

The adoption of a Ways and Means motion stands as an order of the House to bring in a bill based on the provisions of that motion (or to propose amendments to a bill then before the House).

Ways and Means motions can be expressed in general terms, or be very specific, as in the forms of draft legislation. In either case, they establish limits on the scope of the legislative measures they propose.

The provisions of a Ways and Means bill and any amendment proposed to it may not exceed the limits imposed in the Ways and Means motion (more on this below).

In order to table implementing legislation (including any amendments to the *Income Tax Act*), the Ways and Means motion has to have first actually passed in the House.

Ways and Means Bills

A bill based on a Ways and Means motion is referred to as a “Ways and Means” bill.

Concurrence in a Ways and Means motion constitutes an order to bring in a bill based on the provisions of the motion. (A Ways and Means bill must be based on the provisions of its Ways and Means motion).

In this case, following the passage of the vote on Ways and Means motion no. 9, the government will introduce a bill to make the necessary changes to the *Income Tax Act*.

A Ways and Means bill then follows the same legislative steps as regular legislation. However, there are some specific rules and procedures for admissibility of amendments in this case.

Amendments which exceed the scope of the motion on which the bill is based are procedurally unacceptable unless a new Ways and Means motion is concurred in prior to the amendment being moved.

In particular, amendments may not increase the amount of a tax or extend the incidence of a tax or the applicable tax base. Amendments to decrease the amount of a tax or limit its incidence are admissible (during both Committee consideration of the bill and at Report Stage).

Confidence

It is important to reinforce that all Ways and Means business brought before the House are motions of confidence. If the government were to lose a vote of this type, parliament may be dissolved and an election triggered.