

The Writers' Union of Canada

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A PROPOSAL FOR STATUS OF THE ARTIST TAX LEGISLATION

Limited Income Averaging Contracts For Creators And Artists

An Income Averaging Contract (IAC) is essentially an annuity that would allow professional creators and artists the right to spread certain eligible income, such as a large advance, over a period of time in order to provide a regular income and reduce the tax burden that would be incurred if the amount were taxed all at once. IACs were originally motivated by a desire to help those individuals, such as creators and artists, who often invest many years in a work or works which are then sold or show a major profit in one year. This results in the artist being taxed in that one year as if that extraordinary income were a normal yearly income.

The Writers' Union of Canada is an organization of over 750 professional trade book writers. The Union proposes that the purchase of IACs be limited to creators and artists and that the maximum length be ten years.

1. IACs must be purchased from income received (borrowed funds would not be eligible).
2. **Ten Year Maximum Term:** A writer who works five years on a book and needs and wants to spread the ensuing income over a subsequent ten year period in order to support him or herself should be permitted to do so. Limiting IACs to ten year terms would have the effect of protecting those whose earnings are low and not protecting those whose earnings are high. Simply put, by limiting the length of time for which an IAC may be purchased one pushes the purchaser to the highest tax margin. As soon as the maximum margin is reached the purchase of an IAC no longer produces tax savings. Consequently, a taxpayer putting \$100,000 a year into an IAC for ten years would receive no advantage whatsoever, while one putting \$25,000 in every three years would.

Examples

- A. Suppose an author receives an advance of \$50,000 for a book. She has worked for some time on the book and chooses to purchase an IAC in order to support herself for as long as possible so as to write another book. Under the current system, the entire amount is taxable, and she would end up paying roughly \$15,000 in taxes, assuming no other income or \$25,000 if she is at the top tax bracket (earnings over \$56,000). She not only needs the actual income, but also needs the income in the form of a monthly cheque, guaranteed for five years or ten years. On an IAC basis she could easily have an income of \$12,000-\$15,000 for five years, depending on prevailing interest rates.

If she sold another book before the end of the life of her IAC, then the old and new IACs would overlap and her tax bracket would rise accordingly. So limiting the IAC to ten years means that it would only be practical for people whose income was both low and infrequent.

- B. An author strikes it hot. He sells the paperback rights to his novel for an astronomical figure which will net him \$300,000 for that year. The tax payable would be roughly \$130,000, so he decides to purchase an IAC. Under a ten-year maximum plan, he could establish an income of roughly \$50,000 for ten years, while on a five-year plan his accountant would have to explain to him that since the income level of the IAC would put him at the maximum margin, there is no tax savings. He is better off paying the taxes in the first instance. It is possible that purchasing the IAC would, ignoring inflation, increase the total sum coming to him as well as the total taxes payable. He may, even so, also elect for this option in order to receive payment in the form of a cheque every month.

Note that on a ten-year maximum allowable IAC the author has reached his saturation point for the shelter: any overlapping IACs added during this time would place him into the top tax bracket. Consequently, extraordinary income a creator or artist encounters can only be aided by an IAC once every ten years.

CONCLUSION

It is very difficult for a writer, musician, painter or sculptor to make a living in Canada. Virtually all of us have to work at other jobs in order to provide the necessities of life for ourselves and our families. In addition to the great difficulties in earning money, an artist must also be able to manage and conserve it. The purpose of this proposal is not to avoid paying taxes, but rather, to enable an artist to provide support for him or herself over a longer period of time than currently possible. The proposal as outlined is designed to benefit those artists who receive intermittent income and not those few who receive high income on a regular basis.

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