

Ominous precedent

McGuinty's retroactive abolishment of a school tax credit undermines trust

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In the recent Ontario provincial election, the survival of the province's Equity in Education Tax Credit was a major issue. Canadians elsewhere and Ontarians not preoccupied with education paid little heed -- the fact that many provinces and countries with thriving public education support independent schools much more generously than Ontario, for example, scarcely registered.

The latest action of the new Liberal government, which promised to abolish the credit, however, raises issues of much broader concern. The government has proposed not simply to end the credit, but to make its abolition retroactive to Jan. 1, 2003. If that measure goes through, it will set an ominous precedent for Canadians everywhere.

Retroactive taxation is unfair. It means that people discover, after they have already bought and sold, worked and saved, that government has changed the rules. Its arbitrariness undermines the rule of law.

And retroactive taxation is damaging. If people know a government can change the rules after the game is over, they will hesitate to buy and sell, work and save anywhere that government's reach extends. Money will go from bank accounts and pension savings into duffle bags and mattresses, people will move their activities underground and businesses will invest abroad.

For these reasons, Canadian governments have tended to avoid retroactive taxation. Tax laws inevitably change. When they do, however, the normal practice has been to grandparent decisions that were made in the past, on the basis of the tax rules that were then in place.

The federal government, knowing that retroactive taxation can seriously undermine trust in government, has pledged to avoid it. Ottawa has documented the rules by which retroactivity is defined and has informed taxpayers it will not impose retroactive taxation.

For its part, the Ontario government avoided retroactivity when it announced its other fiscal plans this past week. Its corporate income-tax rate hike, for example, takes effect Jan. 1, 2004, not Jan. 1, 2003. Increasing the rates as of Jan. 1, 2003, would have meant imposing taxes on income during the 2003 taxation year after business is transacted and the books are closed. Its tobacco tax hikes were prospective also -- there was no suggestion that people should pay more for cigarettes they have already bought and smoked. Electricity price increases will occur in April, 2004, not April, 2003, so that people can adjust to the change.

It would have been bad enough if the elimination of the credit had been retroactive to June 2003. That would have meant that parents of kids currently in independent schools would face a higher bill than they expected when their kids enrolled last September. By going all the way back to Jan. 1, 2003, the government proposes to compound the damage. Parents of kids who attended independent schools last year -- kids who might be in public schools this year, or out of school altogether -- will also face higher taxes. Eliminating the credit for six of the 10 months of tuition in the 2002-03 academic year will impose higher taxes on parents related to decisions they made in the summer of 2002 -- a year and a half before the government announced the change. For the thousands of middle- and low-income Ontarians with kids in non-"elite" independent schools, this additional tax liability will be no small burden.

Ontarians will doubtless continue to debate the rights and wrongs of limiting public funding to regular public and Roman Catholic schools for years to come. Whatever the result of that debate, the current proposal to retroactively eliminate the Equity in Education Tax Credit is a misguided move that should

concern all Canadians.

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