

not its income is received from Canadian taxpaying corporations, and is not the holder of shares in a mutual fund then able to get the benefit of his 20 per cent on that portion of the income which is derived from Canadian taxpaying corporations.

Mr. WILLIAMSON: Yes, but I think, as the Income Tax Act is worded now this privilege would depend upon his receipts from the mutual fund being dividends.

Mr. GELBER: He would not be liable for capital unless he was in the stockbrokerage business; any distribution of capital for capital gain under the Canadian income tax law would not be taxable unless he is in the stockbrokerage business.

Mr. WILLIAMSON: Yes.

Mr. GELBER: So there is no problem in respect of the 20 per cent.

Mr. WILLIAMSON: There is a problem only to this extent; if these dividends which the mutual funds distribute must be dividends within the meaning of the Income Tax Act, the tax credit would be passed on, and then it is important to know whether they are dividends under the act. At the present time I do not think the Department of National Revenue would be likely to challenge this, but it opens up one more ambiguity, perhaps, in the Income Tax Act.

Mr. GELBER: If the fund is regarded as a partnership and if there is full disclosure to the shareholder of the source of the dividend, then the tax problem disappears.

Mr. WILLIAMSON: In that case I suppose it would lose the opportunity to have the fund taxed as an ordinary corporation. This is what I presume the trusts in Vancouver have been willing to give up.

Mr. GELBER: If it distributes 90 per cent of its income, it is tax free. Is that correct?

Mr. WILLIAMSON: I have forgotten whether it is completely tax free; I think not. Is it not still subject to the 21 per cent rate of interest on dividends which do not qualify as dividends from taxable corporations? However, it has the choice of shifting out of the corporation tax classification into the ordinary tax classification. I know some companies have moved back and forth over the years. At the moment the only companies I have checked on are being taxed as investment companies rather than as ordinary companies; but they do have this flexibility that would not be available to the trust or partnership, and I assume this is of some value to them.

Mr. RYNARD: Is there anything in the act which prohibits mutual funds buying on margin in the market.

Mr. WILLIAMSON: No. In general, I think mutual funds can do pretty much as they please so far as the act is concerned. The Mutual Fund Association has drawn up a code of ethics and regulations. I believe most of the large funds belong to this association and have subscribed to the code. The code says there will be no buying on margin and no short selling. The letters patent of most of these large funds specify there will be no margin buying and no short selling. Some of them specify that there shall be no borrowing, but I think the code of ethics permits some borrowing.

Mr. RYNARD: Do they all subscribe to the code of ethics?

Mr. WILLIAMSON: I think the large firms do, but of course there is no legal requirement to abide by the code of ethics.

Mr. RYNARD: A company could operate in Canada without subscribing to the code of ethics and without being under any control by the act?

Mr. WILLIAMSON: I suppose only if the companies branch would be willing to accept letters patent that did not explicitly forbid short selling and buying on margin. I suppose the companies branch would object at this point.