

thirty-eight, or that a change in capital to the extent of thirty-three and one-third per centum as provided for in paragraph (b) (i) of subsection 1 of section 4 of the act has occurred he may direct that the standard profits shall be ascertained by the board at such an amount as they think just. The standard profits shall be ascertained by the board in its sole discretion at an amount which represents a rate of return on capital employed by the taxpayer in the taxation year determined by the board in its sole discretion which is equal to the average rate of return during the standard period of taxpayers in similar circumstances engaged in the same or an analogous class of business.

8. Proposal. That the procedure for a depressed business applying to have its standard profits determined by the board of referees on a capital-standard basis be altered so that the taxpayer may file his return and pay his tax on the basis of a standard profits computed by the taxpayer himself, at a percentage on capital which he deems fair and reasonable but being not more than ten per centum on "capital employed," as defined in the act, with the right of the minister to refer any case to the board of referees to have the standard profits finally determined by that body.

Explanation. The reason for this change is that some procedure is necessary to enable taxpayers to make a preliminary computation of their tax and pay on that basis. The onus will be on the department of sending to the board of referees those cases where the taxpayer has estimated his standard profits at too high a figure even though it is within the limit of 10 per cent of capital employed. Thus the depressed taxpayers will no longer wait until their cases have been heard by the board before estimating and paying their tax. The result will be greater certainty among the taxpayers and a much earlier and more orderly receipt of revenue by the government. In addition, instead of every depressed case going to the board of referees it is believed that the department will be in a position to send only typical cases.

Tentative Amendment. A rewording of section 5, repealing the present subsections 1 and 2 and substituting a subsection along the following lines would provide for this change:

5. (1) If the taxpayer is satisfied that his standard profits were so low that it would not be just to ascertain his excess profits with reference thereto, because either the business is of a class which during the standard period was depressed or because the business of the taxpayer was for some reason peculiar to itself abnormally depressed during the standard period when compared with other businesses of the same class, he may compute his standard profits at such greater amount as he thinks just but not exceeding an amount equal to interest at ten per centum per annum on the amount of capital of the taxpayer employed in

the business in the taxation year, computed in accordance with the first schedule to this act. If the minister is not satisfied that the taxpayer was depressed during the standard period, or if he is not satisfied that the standard profits as computed by the taxpayer is a fair and reasonable standard he may direct that the standard shall be ascertained by the board of referees. The board of referees shall thereupon determine the standard profits in its sole discretion at such an amount as they think just being an amount equal to interest of not less than five nor more than ten per centum per annum on the amount of capital of the taxpayer employed during the taxation period as computed by the board in its sole discretion in accordance with the first schedule to this act. The decision of the board shall not be operative until approved by the minister, whereupon the said decision shall be final and conclusive.

9. Proposal. That power be given to the board of referees in the case of both new businesses and depressed businesses to ascertain a fair and reasonable standard profits on some basis other than the capital-standard basis in those cases where the capital employed in the business is so small when compared with the earning power of the business or where other special circumstances of the taxpayer are such that to utilize the capital-standard basis would result in an unjustifiable hardship or would create extreme discrimination or jeopardize the continued existence of the business of the taxpayer.

Explanation. In the case of a depressed business where the taxpayer considers that ten per centum on the capital employed is unfairly and unreasonably low as a standard profit and that he comes within the provisions of this proposal and is entitled to relief thereunder, he may tentatively determine his standard profits at an amount which he considers fair and necessary and file his returns and pay his tax accordingly, but every such taxpayer shall be referred to the board of referees which shall determine whether the taxpayer should be permitted to have his standard profits determined on any base other than that of capital employed and if so what is a fair and reasonable standard profit on such basis as the board thinks just.

The board will depart from the capital-employed basis only if it is satisfied that such basis would result in unjustifiable hardship, extreme discrimination or undue jeopardy to the continued existence of the business of the taxpayer.

Tentative Amendment. An addition to section 5 along the following lines, applicable both to new businesses and to depressed businesses of the above-mentioned type, would give effect to this proposal:

S. 5, ss. (3). If on the application of a taxpayer who either was depressed during the standard period or was not in operation prior to January first, one thousand nine hundred and