

These types of business income would have been taxed at rates of approximately 48% rather than at the special rate of approximately 25% for small businesses.

A new business tax rate of 33½% has been introduced by Bill C-17 for any Canadian-controlled private company engaged in any of the three categories of businesses described above and which are defined in the Bill to be "non-qualifying businesses". For this purpose, the professional group, which originally included doctors, dentists, lawyers and accountants, will be expanded to include veterinarians and chiropractors.

The approach adopted by Bill C-17 will generally ensure that when the corporation pays a dividend the amount of tax for which a shareholder will receive credit will approximate the amount of tax actually paid by the corporation. As a result, a shareholder will be in approximately the same position if he draws the corporation's income as salary or as dividends.

Corporations retaining earnings in the business will enjoy a tax deferral since the tax rate of 33½% is lower than the personal income tax rate on taxable income in excess of \$15,000.

It was envisaged in Bill C-37 that the low rate of tax was to be restricted to "qualified business" to be defined by regulation. Draft regulations were made available for study. Your Committee was strongly opposed to the definition of "qualifying business" and "non-qualifying business" being included in the regulations rather than in the Act. In this respect your report said:

"First and foremost, the Committee strongly objects to definition of "qualifying business" and "non-qualifying business" being included in the regulations. While the inclusion of such definitions in the regulations has the advantage of providing a more flexible definition of what constitutes active business, it confers upon the government the power to tax in an arbitrary (and clearly indirect) manner. It is a fundamental principle that the power to tax should be reserved to Parliament alone. Your Committee feels that the definition of what constitutes an active business should be confined to the Act."

Bill C-17 now under study reflects this recommendation by proposing to insert in the Act itself the definition of "active business" and "non-qualifying business" (subclause 38(6)).

The new rate will be applicable immediately for newly formed corporations (subclause 38(8)). Corporations in existence on October 23, 1979 will be subject to the new rules for years commencing after 1979. This will permit corporations in existence on October 23, 1979 to arrange their affairs so that they may benefit from the new reduced rate of 33 ½% instead of being subjected to the high rate of 48%. It is understood the Minister of National Revenue will be prepared to allow corporations that wish to reorganize in the light of these amendments to change their fiscal year-ends in 1980.

The new reduced rate of tax of 33½% will not be accorded to "specified investment businesses". "Specified investment

business" is defined in subclause 38(6) to mean a business the principal purpose of which is to derive income from property (including income from rental of real property), unless the corporation employs in that business throughout the year more than five full-time employees excluding (a) shareholders that own 10% or more of the shares and (b) persons related thereto.

Several recommendations made by your Committee relating to the small business deduction have not been reflected in Bill C-17. Your Committee's report on Bill C-37 stressed the fact that the requirement of five full-time employees for service corporations was too broad and might cause unnecessary hardship in some instances. For example, firms engaged in the research and consulting fields often have less than five full-time employees but are required to hire a considerable number of employees for specific projects and on a part-time basis. Such firms should but would not qualify for the small business deduction. Furthermore, the inability to consider a specified shareholder or related persons as full-time employees would be inequitable in the case of closely held family run corporations. There might be situations where a corporation had more than five full-time employees but because some of them were children of the principal shareholders, the corporation would be taxable at the full rate.

Your Committee also suggested that corporations having capital invested or at risk in tangible assets which generate business income should be entitled to the small business deduction.

The Committee feels the Bill C-17 proposals to be a significant improvement. However, the Committee considers the proposals contained in Bill C-17 relating to the small business deduction to be arbitrary and discriminatory (Why should "non-qualifying businesses" include doctors but not engineers?) and add to the complexity of our income tax system.

RECOMMENDATIONS OF THE COMMITTEE RESPECTING BILL C-37

Reference was made earlier in this report to those recommendations of the Committee which have been accepted and reflected in Bill C-17. The following recommendations made with respect to your Committee's study of the subject-matter of Bill C-37 are not reflected in Bill C-17. Several of these recommendations were also made in your Committee's report on Bill C-56 dated June 27, 1978.

1. The investment tax credit should be extended to used aircraft.

The officials from the Department of Finance have indicated that they do not wish to so extend the investment tax credit as it would be too selective and discriminatory. To extend the credit to all used equipment would be too costly and inconsistent with the objectives of the investment tax credit, namely to increase employment in the equipment manufacturing sector and to provide a stimulus for transportation companies to upgrade their assets.