(b) Capital gains not to be accrued at time of death, but the person who inherits the assets be deemed to have purchased them at their cost to the deceased, plus death taxes paid on that part of the assets related to the capital gain.

Comments and Recommendations

These two paragraphs of the White Paper propose different capital gains treatment of *inter vivos* gifts and bequests. The Committee believes that these two types of gifts should, as far as possible, be treated in the same way for capital gains tax purposes.

We have already found it necessary to recommend deemed realization on death in connection with the shares of widely held companies; and in keeping with our recommendation that, with few exceptions, all capital gains be treated in the same way, **we recommend there be deemed realization at death for all capital assets.**

In so doing we recognize that the result may be a heavier tax burden than would arise from the application of the White Paper proposals which would have permitted indefinite deferral of capital gains accountability for other than shares of widely held corporations. This could result in a lighter tax burden even with a full-rate capital gains tax. However, having reached the decision to recommend half inclusion of capital gains, we have come to the conclusion that no alleviation such as that proposed in the White Paper is necessary.

Provisions similar to those now contained in the *Estate Tax Act* for time to pay tax should apply to all capital gains tax on deemed realization at death.

We also approve the White Paper proposal that there be deemed realization for inter vivos gifts. However, in view of the 1968 amendments to the gift and estate tax law, under which gifts and bequests between spouses are exempt from tax, neither recommendation should apply to transfers between spouses. A consequence of this is that consideration has to be given to such a situation as that where a spouse, having received a tax-free gift of a capital asset which has appreciated in value, then sells it. In the absence of the family unit concept, this could result in abuse where the marginal rate of the recipient spouse is considerably less than that of the donor spouse. **We must therefore recommend that the attribution rules in section 21(1) of the *Income Tax Act* be made applicable also to capital gains so that capital gains realized by a spouse on asssets transferred by the other spouse be taxed to the transferor.**

CAPITAL GAINS AND ESTATE TAXES: Our recommendation for deemed realization of capital gains on death naturally magnifies the problem, brought to the Committee's attention innumerable times, of the concurrent impact of the two taxes at the same time, at death. The White Paper recognized the problem and provided, in paragraph 3.42, that there be no deemed realization but that the person who inherits the assets be deemed to have purchased them at their cost to the deceased, plus that part of the death