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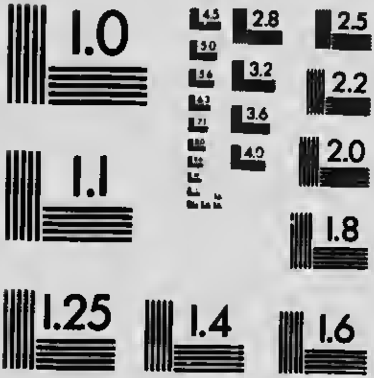

BUSINESS ASSESSMENTS

AS A

SUBSTITUTE FOR PERSONAL PROPERTY

BY

JAMES C. FORMAN

ASSESSMENT COMMISSIONER, TORONTO, ONT.

Reprinted (by request) from the Proceedings of the Second International Conference of the International Tax Association, held at Toronto, Ont., October 6-9, 1908.

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BUSINESS ASSESSMENTS AS A SUBSTITUTE FOR PERSONAL PROPERTY TAX.

By JAMES C. FORMAN,

Assessment Commissioner, Toronto, Ont.

PRIOR to the operation of the Assessment Act of 1904, which came into force January 1, 1905, and in which is provided the Business Assessment, grave and general dissatisfaction existed with the Personal Property Tax as levied and leviable under the provisions of the Assessment Act.

On the one hand owners of real estate contended that our merchants and manufacturers were not assessed sufficiently high on their personalty and consequently did not pay their fair share of taxation. Single taxers urged its abolition because of its being a tax upon industry. The mercantile community opposed it, particularly the manufacturers and wholesale merchants, on the ground that it was unfair, inquisitorial, inequitable and unjust. In lieu of this assessment on personal property it was proposed to substitute a business tax, which was provided for in the act, and which represented as a maximum annual tax 7½ per cent. on an amount representing 7 per cent. of the assessed value of the real property so occupied. This, after much consideration, was not adopted, as not being sufficiently applicable to meet taxation requirements. The agitation against the personalty tax, however, continued, and finally resulted in the Ontario Government appointing a Commission, which it did September 10, 1900, "to inquire into and report upon the law then in force relating to the different classes of property for the purpose of municipal taxation," one of such classes being "the most equitable method of assessing stocks and other property of mercantile firms and corporations."

Before following out the result of the work of the Commission, a brief reference to the Act then in force, what constituted personal property, and how assessable, will perhaps be in order.

First, then, generally speaking, wealth was supposed to be the basis of taxation, and the assessor for his authority had before him Section 28, which read "real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor."

Personal estate and personal property were defined, and included "all goods, chattels, interest on mortgages, dividends from bank stocks dividends on shares of stocks of other incorporated companies, money, notes, accounts and debts at their actual value, income and all other property except land and real estate, and except property herein expressly exempted."

The main exemptions were:

(Subsection 20.) "So much of the personal property of any person as is equal to the just debts owed by him on account of such property."

The personal property of a bank, under Section 39, was exempt from assessment. Household effects of whatever kind, books and wearing apparel, were exempt. The shares of any incorporated or chartered bank were also added to the exemptions, as well as any municipal, provincial or Dominion debentures.

While these exemptions were made clear and personal property defined for assessment purposes, the machinery provided to enforce correct returns was quite ineffective. It was the duty of the party assessed to give all necessary information to the assessor, and, if required, to deliver a statement in writing containing all the particulars; failure to deliver a statement, on complaint of the assessor and upon conviction before a justice of the peace, called for a fine of $20. No oath or statutory declaration of the correctness of the statement was required. If the statement received was found to be false, and knowingly so, the fine was increased to $50. (No one was ever fined.) No time was fixed when the statement was to be delivered to the assessor, nor other penalty than the fine named for the non-return of the statement: in brief, the sections providing for these returns were of so little value that they were seldom employed.

It is true that "Income Schedules," which set forth the property liable to assessment, were largely used and were of considerable assistance to the assessor, but in the main were considered as unsatisfactory.

It would perhaps be taking up valuable time to go into details, except in a brief way, in order to show the methods of the assessor in arriving at an assessment on personal property. If, for instance, he possessed a close knowledge of the Assessment Act, he would endeavor to secure a statement of the assets and liabilities of the merchant, and if allowed to examine such statement, would carefully scrutinize the various items, particularly that of "liabilities," in order to see that no other than just debts due on account of the personalty were being deducted, and did not include debts due on real estate, which, under the Act, could not properly be deducted. He would also note if the merchant was indebted on account of such goods to any one residing in the municipality; such amount, while not ratable against by the merchant, remained assessable against such resident person either as "notes" or debts, at their actual value.

The merchant, however, could and frequently did refuse to the assessor the submission of the statement of assets and liabilities; in such case the assessor would do the best he could and would put down an amount comparable, perhaps, with other merchants' assessment. At the best it could only be a guess, and so long as it was low enough no appeal was made.

If, in assessing the larger concerns, he reached within one fifth or one sixth of the actual value, he was doing pretty well.

Merchants argued with the assessors, if the latter sought to increase their assessment, that they were already assessed high enough, especially as "A," one of their competitors, who carried a larger stock, was only assessed on an amount rated no higher than they were. Then, again, many of the older firms had been for years rated on the same and practically a fixed assessment, which made it the more difficult for the ordinary assessor to change. Complaints were made that to increase their ratings would mean driving them out of business. References were also made to the existing system of assessment in Montreal, which was claimed to be favorable to their chief competitors, viz., the business tax.

And so it went on, the merchant knowing that he was greatly underrated and wondering what the next assessor would do, and if he would double or treble or quadruple his assessment; and with this feeling in the minds of many they were ready for such a change as would remove this doubt and place them in a position to know, as absolutely as possible, what their taxable quantity would be, and outside the inquisitorial powers of the assessor.

So it was that the Commission was appointed to look into these matters. Their first meeting was held Nov. 13, 1900. Public notice was given of these sittings. They were largely attended by representative bodies, such as the Board of Trade from Toronto, London and Hamilton, the Retailers' Association, the Single Tax Association, and by merchants, manufacturers, managers of insurance and loan companies, owners of real estate and others. Anomalies and inequalities in taxation were pointed out and much valuable information was given.

The experience of American cities regarding the assessment of personal property and reports from American bodies on the same subject were submitted, all with the same argument, viz., that it was impossible to equitably assess personal property. This was abundantly made clear to the Commission, as was the impossibility and the foolishness of attempting to assess such items of personalty as money, notes, income, interest on mortgage, etc.,—quite true some of it found its way into the assessment rolls, but only enough to prove how futile were the efforts of the assessors in their endeavor to carry out the law. Without the assistance of the bank how was the large bulk of "money" to be assessed: without a large staff to continuously examine the records of the registry office for "interest on mortgage," how was this to be arrived at: and without the powers now given under the present act, it were idle to even hope to reasonably rate those liable to assessment on "income." To borrow a quotation from the pen of Thomas G. Shearman, in his valuable work on Natural Taxation, as contained in a memorandum prepared by the Single Tax Association of Toronto, and presented to the Ontario Assessment Commission, 1900, "if anything in human experience as applied to methods of taxation is settled, it certainly is the fact that taxation upon personal property never can be made a success. Taxes can be raised from personal property, no doubt, for large sums are thus raised, but that they cannot be levied with any reasonable approach to accuracy or equality is demonstrated not only by conclusive reasoning, but by the more conclusive fact that they never have been thus levied."

The Ontario Assessment Commission, after closely delving into these matters and receiving evidence from every side, presented their first voluminous report Jan. 30, 1901, followed by one some time later.

These reports were handed to a special committee appointed by the Ontario Government, and after much labor and consideration of assessment statistics obtained from seventy-two municipalities in Ontario, including cities, towns, villages and townships, the present Assessment Act was brought forth. Many changes were made and great assistance was given to the assessor in the machinery provided for the carrying out of the Act, especially that relating to income. The most important change was the abolition of personal property assessment, and the substitution therefor of what is termed

"Business Assessment."

This was a change radical in its nature and final in its result. For instance, a retail merchant is assessed for the premises occupied by him in his business at, say, $8000. His business assessment (where the population is over 50,000) is 25 per cent. of the said assessed value, or $2000. His personal taxes, therefore, are levied on this $2000; he can, if he wishes, ascertain this himself by referring to the assessment roll, should he purpose occupying some store, and thus place himself in a position to know the taxes chargeable against his business, subject, of course, to any future increase in realty. He is not concerned at the approach of the assessor, he is not called upon to submit a statement of his assets and liabilities, nor is he asked any question whatever regarding the particulars of his business. The assessor simply enters his name in the roll and rates him as a retailer, after which his business assessment becomes automatically fixed. The same method applies to the distiller, the brewer, the wholesaler, the manufacturer, the departmental store, the coal and wood dealer, the lithographer, the printer or publisher, in fact all engaged in business pursuits, their ratings varying from 150 per cent. to 25 per cent. of the assessed value of the real property occupied or used for such business, and no one engaged in business shall pay taxes on a less amount than $100. This business assessment is favorable, inasmuch as it is easy of application, and the delving by the assessor into the affairs of every one doing business is entirely avoided. It is, however, not claimed that the new system is equitable from a basis of wealth; in fact, it cannot be, for the reason that a percentage of the assessed value of the land is taken as the business assessment in lieu of the value of personal property. Large capital is employed in small premises, and *vice versa*, but it has this effect, that no one escapes, and all contribute more or less to the burden of taxation. If a comparison is made with the former assessment of personalty, there will be found less inequalities than will be shown under the old methods. No one ever contended that personal property was or could be successfully assessed; much of it could not be seen. Debts due on account of personalty were to be deducted, and the statement is ventured that not one tenth of the personal property liable to assessment was assessed. The assessor could not cope with the artifices employed, and besides, as has already been stated, very imperfect machinery was provided under the Act to assist him in the discharge of his duties.

The business men as a whole have welcomed the change in the Assessment Act; they now know that the assessor cannot go beyond the rating fixed by the Act. Formerly, because of their under-assessments, which had been handed down as heirlooms to succeeding assessors, they could not say where the assessment was to stop, as they were liable to an increase year after year, so long as the amount assessed did not exceed the actual assets of the business;; all this depending upon the activity of the assessor. This is now done away with, and as "new brooms sweep clean," it is now proven that the business assessment shows a vast improvement upon the attempt for the past thirty or forty years to assess personal property as defined under the former Act.

Income.

The change here is great, and as a revenue producer is far ahead of any legislation heretofore granted sanctioning the assessment of income. If we read Subsection 19 of Section 5 (which contains the exemption clauses), we find:

First, the annual income derived from personal earnings or from any pension, gratuity or retiring allowance, in respect of personal services, in a city or town having a population of over 10,000, is exempt to the extent of $1000, and is assessable at the place where he is a resident thereof; and where he is not a householder, according to the assessment roll, the exemption is $600.

Second, there is no exemption as to income received or derived from other than personal earnings, therefore such class of income is assessable on the full amount except where the gross income does not exceed $300, as under Subsection 8 of Section 2, "income" is defined (in part) "and shall include the interest, dividends or profits, directly or indirectly received from money at interest upon any security, or without security, or from stocks, or from any investment, and also profit, or gain from any other source whatever."

The result of this subsection is that every resident of every municipality in Ontario in receipt of income from other than personal earnings is liable to assessment in respect of such income; thus the dividends from all financial corporations, such as banks, insurance and loan and trust companies, are assessable, and these companies are required by the Act to make and do make an annual return of such dividends.

A reference is now made to the legal and medical professions, the dentist, the civil or electric engineer, surveyors, architects, agents and others; all these are subject in the first place to business assessment in the same manner as any other business, and in addition, if the income is beyond the amount of the business assessment, then such excess is liable to assessment, subject to the statutory income exemptions. Thus, no professional man escapes taxation, and no less an amount than $[illegible] shall constitute a business assessment.

The strictest endeavor has been made to omit no class of income properly liable to assessment. In Section 11, Subsection "A," every person not liable to business assessment shall be assessed and taxed in respect of income,—so that it at present appears no one can escape. While this is just, and all are made liable to assessment, the mere fact of being liable would not help so very much if machinery were not given the assessor to carry out the provisions of the Act, so Sections 16 to 21, some new and others amended, as compared with the old Act, have been inserted. From these it will be seen that employers are to give or furnish to the assessor the names, places of residence, and wages, salary or other remuneration of their employees. Section 19 requires corporations to furnish the assessor with a list of the resident shareholders of the municipality requiring the same. Then comes Section 21, which provides a penalty of $100 and an additional penalty of $10 for each day during default. The Act, therefore, as far as touched upon, is not only workable, but a vast improvement.

A question naturally arising would be "Why rate some 25 per cent., some 50 per cent., some 60 per cent., and so on up to 150 per cent.?"

The answer is that in framing the Act and considering its effect on the different municipalities throughout Ontario as a means of providing taxes, it was necessary to prove that its operation should provide at least as much taxes as were collectible under the old Act. To prove this statistics from seventy-two municipalities in Ontario, showing the total assessment of their real and personal property and income, were collected, and statements were obtained also of the amount of taxes collectible from the merchant, the manufacturer, the wholesaler and others, and the assessed value of their real property, so that by applying the present ratings it was satisfactorily demonstrated that no loss in taxation to any of these places would result.

There are also other reasons for this discrimination in the ratings, particularly perhaps in Toronto. Take the lowest, 25 per cent., as applied to retail merchants. Necessarily they are found on our leading thoroughfares, and in the more congested parts of the city where land values are at the highest, and rents are at the highest. Many here have to be satisfied with a moderate frontage and rely for their profits on the frequent turn-over. Many of these premises are rented under leases which call for the payment of all municipal taxes, including local improvement rates. Land values here are and have been of rapid increase, and each $100 or $200 per foot increase means an additional $25 or $50 per foot on the business assessment, this being the result of the business assessment as applied to retail merchants, and, of course, applies throughout the city wherever land increases have been made and business carried on.

In the case of the wholesale merchant, land values do not reach the figure of the lands occupied by the retailer, and are more normal in value. It is not necessary for him to occupy the congested districts. He has very large capital invested, and his rating of 75 per cent. on the value of his premises will as a rule be favorable to him as compared with taxes leviable on personal property.

The rating of a manufacturer is 60 per cent. Generally speaking he has large capital invested in machinery and plant which are exempt from assessment. His premises do not demand anything in the way of special architecture, hence his premises are economically constructed, but on the lines of solidity. In some branches of manufacture the buildings are even lightly constructed. It is not necessary that he be centrally situated, so his land is lower in value.

Such reasons were considered in fixing the different ratings. That they may be disturbed remains to be seen. Experience will point out the weaknesses. It may be that time and public opinion will exert their influence in fixing a flat rate, or it may be that the business assessment by slow gradations will entirely disappear, leaving the real estate to bear the burden.

As a substitute for personal property the business assessment is so far in advance of the former system that the assessment of personal property as such will in my opinion never be revived.

It appears to me to be a reasonable conclusion, with the growth of the city and the consequent increase in population and enhanced value of real estate, that there should be a proportionate increase in the personal wealth of the citizens. This being the case, the assessment on personal property, including income, should show a proportionate increase. If the above conclusion be correct, a comparison of the personal property assessment with the realty assessments, as shown by the returns of the assessors in Toronto for a certain number of years, indicates that the effort to assess personal property did not result in a proper assessment. A comparison of business assessment (together with income) with the realty assessment shows such assessments are consistent with the enhanced values of the realty, and we must conclude that the new method is preferable to the old.

For the purpose of illustrating my point I have appended figures showing the assessment of this city for the years 1878, 1883 and 1888 (periods before the "boom" of 1889), and from the year 1900 (the lowest point of land assessment following the "boom") to the year 1909, the assessment just completed.

Year	Population	Value of Realty	Per Capita	Value of Personal Property and Income	Per Capita	Percentage of Personalty as compared with Realty
1878	75,110	$10,918,507	$543	$9,158,713	$122	22 3/10 %
1883	105,211	49,007,630	466	10,553,513	100	21 5/10 %
1888	160,141	84,256,033	526	14,038,918	87	16 6/10 %

Year	Populaton	Value of Realty	Per Capita	Value of Personal Property and Income	Per Capita	Percentage of Personalty as compared with Realty
1900	192,907	$113,153,239	$586	$12,582,770	$65	11 1/10 %
1901	199,043	111,836,084	577	14,118,060	71	12 3/10 %
1902	205,887	120,770,856	586	15,793,465	77	13 %
1903	211,735	123,155,686	581	15,490,309	73	12 6/10 %
1904	219,002	126,864,986	580	14,952,511	69	11 8/10 %
1905	226,045	131,481,345	581	17,337,726	76	13 2/10 %

YEAR	POPULATION	VALUE OF REALTY	PER CAPITA	VALUE OF BUSINESS ASSESSMENT AND INCOME	PER CAPITA	PERCENTAGE OF BUSINESS ASSESSMENT AND INCOME COMPARED WITH REALTY
1906	238,612	$140,948,938	$590	$26,912,817	$118	19 $^{1}/_{10}$ %
1907	253,720	155,428,408	612	29,834,857	117	19 $^{2}/_{10}$ %
1908	272,[illegible]	172,957,878	631	33,427,875	122	19 $^{3}/_{10}$ %
1909	287,201	187,139,029	698	36,068,384	125	19 $^{3}/_{10}$ %

For the years 1878, 1883 and 1888, and 1900 to 1905, personal property and income are added together, while for the years 1906 to 1909 business assessment and income are combined.

A scrutiny of these figures shows that in 1878 the assessment of personal property and income was 22 $^{3}/_{10}$ per cent. of the realty assessment; for 1883, 21 $^{5}/_{10}$ per cent.; 1888, 16 $^{6}/_{10}$ per cent.; 1900, 11 $^{1}/_{10}$ per cent.; while for the years 1901 to 1905 the percentage varied from 12 $^{3}/_{10}$ per cent. to 13 $^{2}/_{10}$ per cent., notwithstanding the fact that each succeeding year showed an increase in population and realty assessment.

The figures based on business assessment and income (1906 to 1909) show the percentages to range from 19 $^{1}/_{10}$ per cent. to 19 $^{3}/_{10}$ per cent. of the realty assessment, notwithstanding an increase in realty in that period of over $55,000,000.

In conclusion I beg to add that I have received from many of our wholesalers, manufacturers and others, and from the Secretary of the Retailers' Association, who is keenly alive to all that affects the Association, an almost unqualified statement of their preference for, I do not say of entire satisfaction with, the Business Assessment as a substitute for Personal Property.