

# Canadian Tax Foundation

L'Association Canadienne d'Etudes Fiscales

## *Thirtieth Annual Report*

For the year ending December 31, 1975

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Thirtieth Annual Report

For the year ending

December 31, 1975





CANADIAN TAX FOUNDATION

L'Association Canadienne d'Etudes Fiscales



THE BOARD OF GOVERNORS

Elected April 13, 1976

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* John H. C. Clarry, Q.C.	Toronto
* G. Ian Craig, C.A.	Montreal
C. Paul Daniels, Q.C.	Vancouver
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Keith E. Eaton, Q.C.	Halifax
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* Jacques E. Fortier, C.A.	Quebec
Vernon C. Fowke, C.A.	Regina
* Kerr Gibson, F.C.A.	Toronto
A. J. Irving	Winnipeg
* Robert Law, Q.C.	Toronto
W. Merrill Leckie	Vancouver
R. J. MacBurnie, C.A.	Moncton
Harold H. MacKay	Regina
* Jean Marier	Quebec
Leonard A. Martin, Q.C.	Corner Brook
Eugene J. Mockler	Fredericton
G. Edward Moul, C.A.	Vancouver
* Norman J. Munn	Toronto
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James S. Palmer, Q.C.	Calgary
* Neil F. Phillips, Q.C.	Montreal
* Jacques Raymond, C.A.	Montreal
* Irving L. Rosen, F.C.A.	Toronto
* R. M. Sedgewick, Q.C.	Toronto
* Jacques St-Martin, C.A.	Quebec
* Benjamin Swirsky, C.A.	Toronto
* George T. Tamaki, Q.C.	Montreal

\* Executive Committee of the Board of Governors



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John H. C. Clarry, Q.C. Chairman

Jacques Raymond, C.A. Vice Chairman and  
Chairman of the Executive Committee

George T. Tamaki, Q.C. Vice Chairman

Kerr Gibson, F.C.A. Past Chairman

Douglas J. Sherbaniuk, Director

John M. MacLeod, Secretary and Treasurer



## PAST CHAIRMEN

- Molyneux L. Gordon, K.C. (deceased)
- Gordon R. Munnoch, K.C. (deceased)
- J. Grant Glassco, F.C.A. (deceased)
- W. G. H. Jephcott, F.C.A. (deceased)
- Claude S. Richardson, Q.C. (deceased)
- Kenneth LeM. Carter, F.C.A. (deceased)
- \* Lazarus Phillips, Q.C., Montreal
- \* Thomas A. M. Hutchison, F.C.A., Toronto
- \* R. deWolfe Mackay, Q.C., Montreal
- \* John A. Wilson, F.C.A., Toronto
- M. Gerald Teed, Q.C. (deceased)
- \* A. Willard Hamilton, C.A., Montreal
- Henry F. White, Q.C. (deceased)
- \* Campbell W. Leach, C.A., Montreal
- \* Stuart D. Thom, Q.C., Toronto
- \* A. J. Little, F.C.A., Toronto
- \* John deM. Marler, Q.C., Montreal
- \* Archibald D. Russell, C.A., Vancouver
- \* Arthur S. Pattillo, Q.C., Toronto
- \* Lancelot J. Smith, F.C.A., Toronto
- \* Phillip F. Vineberg, Q.C., Montreal
- \* H. Marcel Caron, C.A., Montreal
- \* John M. Godfrey, Q.C., Toronto
- \* Robert B. Dale-Harris, F.C.A., Toronto
- \* Roger Letourneau, Q.C., Quebec
- \* Frank T. Denis, C.A., Montreal
- \* W. E. P. DeRoche, Q.C., Toronto
- \* Denham J. Kelsey, F.C.A., Vancouver
- \* Robert H.E. Walker, Q.C., Montreal
- \* Kerr Gibson, F.C.A., Toronto

\* Advisory Committee of Past Chairmen

## STATEMENT OF FINANCIAL POSITION

AS AT DECEMBER 31, 1975

(With comparative figures for 1974)

ASSETS	1975	1974
CURRENT ASSETS		
Cash	\$118,474	\$109,189
Investment, at cost (note 2)	465,000	465,000
Accounts Receivable and Deposit	1,874	1,853
	<u>585,348</u>	<u>576,042</u>
FIXED ASSETS, at cost (note 1(a))		
Furniture and Office Equipment	28,214	23,302
Leasehold Improvements	14,835	14,835
	<u>43,049</u>	<u>38,137</u>
Accumulated Depreciation and Amortization	27,062	24,471
	<u>15,987</u>	<u>13,666</u>
TRUST FUND		
Cash	13,060	12,158
	<u>\$614,395</u>	<u>\$601,866</u>

## LIABILITIES AND RESERVE

CURRENT LIABILITIES		
Accounts Payable	\$ 96,462	\$ 66,525
Deferred Revenue (note 1(b))	115,892	126,641
	<u>212,354</u>	<u>193,166</u>

## RESERVE

Retained for continuation of the Foundation's activities		
Balance, beginning of year	396,542	309,826
Excess of revenue over expense (expense over revenue)	(7,561)	86,716
Balance, end of year	<u>388,981</u>	<u>396,542</u>

## TRUST FUND LIABILITY

Taxation and economic growth study fund -- Joint Project with Queen's University	13,060	12,158
	<u>\$614,395</u>	<u>\$601,866</u>

APPROVED ON BEHALF OF THE BOARD OF GOVERNORS

J. Kerr Gibson  
ChairmanJohn H. C. Clarry  
Vice-Chairman

STATEMENT OF REVENUE AND EXPENSE  
FOR THE YEAR ENDED DECEMBER 31, 1975  
(With comparative figures for 1974)

	<u>1975</u>	<u>1974</u>
REVENUE		
Subscriptions		
Corporate	\$151,962	\$147,096
Individual	165,743	163,916
	<u>317,705</u>	<u>311,012</u>
Investment Income	45,194	39,127
Conferences	220,499	235,188
	<u>583,398</u>	<u>585,327</u>
EXPENSE		
Technical Studies		
Research Salaries	125,953	94,830
Research Consulting	11,000	12,083
Publications (net)	97,814	60,929
Special Studies	23,373	27,872
Books and Periodicals -- Library	5,447	3,905
Conferences -- direct expense	155,039	143,186
	<u>418,626</u>	<u>342,805</u>
Administration		
Salaries	86,949	81,925
Pension and insurance plans	12,640	8,986
Rent	34,606	33,072
Travelling	7,878	3,170
Telephone and telegraph	4,335	3,821
Postage	9,957	9,539
Office printing, stationery and supplies	5,819	7,673
General office expense	7,558	5,494
Depreciation and amortization expense	2,591	2,126
	<u>172,333</u>	<u>155,806</u>
	<u>590,959</u>	<u>498,611</u>
Excess of revenue over expense (expense over revenue)	<u>\$ (7,561)</u>	<u>\$ 86,716</u>

# STATEMENT OF TRUST FUND LIABILITY

FOR THE YEAR ENDED DECEMBER 31, 1975  
(With comparative figures for 1974)

	1975	1974
Balance beginning of year	\$ 12,158	\$ 11,241
Interest income	902	917
Balance, end of year	<u>\$ 13,060</u>	<u>\$ 12,158</u>

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 1975

### 1. Significant accounting policies

#### (a) Fixed assets

Depreciation on furniture and office equipment and amortization of leasehold improvements are calculated on a straight-line basis at 10% per annum.

#### (b) Deferred revenue

Subscription revenue applicable to a future period is deferred.

### 2. Investments

Guaranteed investment certificates	
8½% to 9% due 1976 to 1979	\$300,000
Kinross Mortgage Corporation	
10% due 1980	100,000
Royal Trust Company 'M' Fund	
6,616,188 units	
(Market value 1975 \$63,582; 1974 \$62,391)	65,000
	<u>\$465,000</u>



## AUDITORS' REPORT

The Board of Governors and the Members,  
Canadian Tax Foundation,  
L'Association Canadienne d'Etudes Fiscales.

We have examined the statement of financial position of the Canadian Tax Foundation/L'Association Canadienne d'Etudes Fiscales as at December 31, 1975, and the statement of revenue and expense for the year then ended. Our examination included a general review of the accounting procedures and such tests of accounting records and other supporting evidence as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of the Canadian Tax Foundation/L'Association Canadienne d'Etudes Fiscales as at December 31, 1975, and the results of its operations for the year then ended, in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Jarrett, Goold & Elliott  
Chartered Accountants

Toronto, Ontario  
February 12, 1976

Report of the Chairman  
to the Thirtieth Annual Meeting of the  
Canadian Tax Foundation  
April 13, 1976

1975 was a milestone in the life of the Foundation, marking as it did the thirtieth anniversary of the formation of this unique organization as a result of the joint action of the Canadian Bar Association and the Dominion Association of Chartered Accountants, the predecessor of the Canadian Institute of Chartered Accountants.

An anniversary is not merely a celebration of what is past. It is also a time for stock taking and for looking ahead. The Annual Meeting affords the Chairman and the Director an opportunity to report both on the Foundation's affairs over the past year and the activities planned for 1976.

#### MEMBERSHIP AND FINANCE

The figures for both membership and finance for 1975 were somewhat distorted by reason of the postal strike in the latter part of October, November and early December. In these three months both new memberships and renewals of membership are heavy. Notwithstanding this disruption, we were pleased to record an increase in individual membership and in the number of corporate subscribers for the year. Total membership at 31 December 1975 was made up of 6,337 individual members and 393 corporate members. A further 300 companies are represented through association memberships on their behalf.

To date in 1976, we have made a net addition to the rolls of 35 individual members and 6 corporate subscribers. Ordinarily, such increases would be regarded as adequate. However, in view of our need for substantially greater revenues, which I shall elaborate upon in a moment, extra recruitment efforts to expand our corporate support have been made. The Chairman of the Membership Committee, Stanley E. Edwards, Q.C., has recently written to all corporations that have indicated interest in the Foundation by paying for an individual member-

ship for one of the members of their organization, suggesting that they consider becoming corporate subscribers instead.

A statement of the financial position of the Foundation was included with the notice of the Annual Meeting, and members have, therefore, had an opportunity to study it. On the income side, subscription revenue increased to \$317,000 from \$311,000 in the previous year, and would have been considerably higher but for the postal strike. Total revenue for the year was slightly less than in 1974, since the increase in subscription revenue was offset by a decline in conference revenues -- \$220,000 last year compared with \$235,000 in 1974. Whereas we enjoyed a favourable balance of revenue over expense of more than \$86,000 in 1974, we incurred a deficit of \$7,500 in 1975, the first deficit that we have had since 1970. It was not attributable to any falling-off of support for the Foundation -- as already noted, subscription revenues increased last year -- but rather to reduced conference revenues and, particularly, to an increase of over \$90,000 in operating expenses for the year, reflecting higher costs in virtually every aspect of our activities.

Although we have carefully considered how we can constrain our costs and more efficiently conduct our research, publication and other activities, higher revenues will be necessary to finance operations for the current year. To this end, the individual membership fees will be increased, effective from May 1, 1976, from \$30 to \$40 and, in the case of special memberships -- for students and academics -- from \$15 to \$20. This is the first increase in individual memberships since 1 January 1973. Even after taking into account the fee increases, we are budgeting for a deficit of over \$14,000. The projected deficit does not make any provision for expansion of the research staff or for new projects commissioned to outside experts. If we are successful in attracting the qualified personnel that we urgently need, particularly a tax lawyer and a chartered accountant, or undertake new studies -- and it is very likely that we will -- the deficit will be substantially higher.

We are also seeking additional revenues from our corporate supporters. Commencing in May, as memberships arise for renewal, corporations will be

asked to increase the amount of their subscription. A similar request was made when we were last in a deficit position six years ago, and many of our corporate subscribers responded generously. We are optimistic that our request on this occasion will be similarly met. I might add that, during the past year, it was a source of satisfaction and encouragement to receive several unsolicited increases in corporate contributions, which were usually accompanied by a cordial letter commending the Foundation for the work it is doing.

### CONFERENCES

There is little doubt that the Foundation's conference program is equal in importance to any other phase of its operations. The Annual Conference in November was held in Quebec City for the first time since 1959. In spite of the substantial difficulties which the postal strike caused to the Foundation and members, nearly 1300 persons were in attendance to hear some 60 eminent authorities from the professions, business, government and universities discuss a wide variety of topical tax issues. In addition, the Honourable Donald S. Macdonald, Minister of Finance, addressed a plenary session on the new wage and price guidelines. We were pleased to have as our banquet speaker Marcel Bélanger, President of the Canadian Institute of Chartered Accountants. The Workshop Sessions, which have now become a regular part of the program, proved to be as popular as ever. This was the first occasion on which simultaneous translation facilities were made available.

As a service to members, over 2,800 copies of papers delivered at the Conference were provided at nominal cost. Every effort is being made to expedite the preparation of the Conference Report, which is scheduled for publication next month.

The one-day Corporate Management Tax Conference was held in Montreal in June and attracted an attendance of over 350 businessmen and tax practitioners. Seven papers and a case study dealt with a subject of fundamental importance, "Tax Aspects of Measuring Business Profits."



As for the regional conference program, the 11th Banff Tax Seminar, which the Foundation sponsors in co-operation with the Banff School of Management Studies, was held at the Banff Centre in February. In May the Foundation and the Faculty of Law at the University of British Columbia held a one-day seminar in Vancouver. A French language seminar, "Journée d'Etudes Fiscales", was presented in May at the Ecole des Hautes Etudes Commerciales of Montreal under the joint sponsorship of the Foundation and the Centre de Formation et de Perfectionnement en Administration. The papers, which dealt with such topics as differences between the federal and Quebec income tax Acts, estate planning in Quebec and corporate reorganizations, were published and distributed to registrants. I should like to record here our appreciation for the assistance provided by the Order of Chartered Accountants of the Province of Quebec, the Board of Notaries of the Province of Quebec and the Quebec Chamber of Commerce in making this event known to their members. Finally, the Atlantic Provinces Tax Seminar, jointly sponsored by the Foundation and the Faculty of Commerce at Saint Mary's University, was held in Halifax in October.

The conference program for 1976 is shaping up to be a very busy one. The inaugural Prairie Provinces Tax Conference was held in Winnipeg on January 16 and 17 under the joint sponsorship of the Foundation and the Continuing Education Division at the University of Manitoba. Nearly 200 persons were present to hear speakers from the legal and accounting professions in Manitoba, Saskatchewan and Alberta discuss various aspects of "Tax Treatment of Small Business." The papers are in process of publication, and will be distributed to registrants. In May, three seminars will be held: the 12th Banff Seminar on Income Tax, "Journée d'Etudes Fiscales", the theme of which is "Traitement Fiscal de la Petite Entreprise", and the UBC tax seminar. In the fall, the Dalhousie tax seminar will be held in Halifax.

This year's Corporate Management Tax Conference, to be held in Toronto on June 23, will be given over to a discussion of "Aspects of Income Tax Compliance and Administration".

Finally, let me remind you that the 1976 Annual Conference will be held in Vancouver on November 22-23-24.

#### TAX LEGISLATION

Attention to new legislation is, of course, another of the main jobs of the Foundation, its staff and its members. There was no let-up in this aspect of the Foundation's work last year.

As has long been our practice, a committee of lawyers and chartered accountants, under the auspices of the Foundation, met with senior officials of the Departments of Finance and National Revenue in January 1975 to review the extensive and complex amendments to the Income Tax Act contained in Bill C-49. The work of the committee over the years has been regarded as useful in identifying technical deficiencies in proposed changes in the tax law.

A notable development in the process of public consultation in the formulation of tax policy was the release of two Discussion Papers at the time of delivery of the federal Budget on June 23, 1975. The "Green Papers" contain proposals for changes in the federal sales and excise taxes and in the tax treatment of charitable organizations, to which the public has been asked to respond. Each paper was discussed by a panel of speakers at the Annual Conference, and two articles on the sales tax proposals appeared in the Canadian Tax Journal.

In 1973, the Minister of Finance announced that the government was undertaking a thorough review of the current capital cost allowance system. To assist in the review, he invited representations from the public. In response to this invitation, a committee organized by the Foundation undertook a technical study of the present system, with a view to identifying inequities, anomalies and loopholes and making suggestions for the correction of these technical imperfections. The study has now been completed and will be sent to the Minister of Finance in the near future. Several months ago, a draft of the study was discussed at a two-day meeting of the members of the committee and representatives of the Departments of Finance and National Revenue. Many

technical and policy questions were considered. As a result of the meeting, the committee has included in the study a brief examination of certain basic policy issues, but it is essentially a technical examination of the current capital cost allowance provisions.

#### TAX SIMPLIFICATION

The papers on "Tax Simplification" that were delivered at the opening session at the Annual Conference last November stimulated considerable interest among Foundation members to seek ways to reduce the complexity of the tax system, particularly the Income Tax Act. In furtherance of this objective, a small committee of lawyers and chartered accountants has been organized by the Foundation to conduct what is essentially a feasibility study -- that is, to consider whether a group of professionals outside of government can contribute effectively to simplification of the Income Tax Act and, if so, how they might go about it. Members of the committee are: R.D.Brown, F.C.A.; S.E.Edwards, Q.C.; Arthur R.A.Scace; D.Y.Timbrell, F.C.A.; D.A.Ward, Q.C.; the Director and myself. As a pilot project, the committee has undertaken to re-write certain provisions of the Act so as to present the existing law in a simpler, more readily understandable form. It is still too early to tell what results will flow from this endeavour.

#### CHANGES IN THE BOARD OF GOVERNORS

The composition of the Board of Governors will undergo substantial change today. The retiring members of the Board are twelve in number:

J.W.Abbott, F.C.A. - Winnipeg

W.J.Astle, F.C.A. - Edmonton

H.Buchwald, Q.C. - Winnipeg

G.A.Caines - Halifax

W.M.Carlyle - Vancouver

J.R.Chalker, Q.C. - St. John's

J.C.Couture, Q.C. - Montreal

S.E.Edwards, Q.C. - Toronto

W.D. Goodman, Q.C. - Toronto

J.L. Goss, C.A. - Fredericton

M.C. Rodney - Edmonton

R.H.E. Walker, Q.C. - Montreal

It is my particular pleasure to thank all these men for their considerable efforts on behalf of the Foundation during their terms of office. As you know, our Governors serve without remuneration, often at considerable sacrifice to themselves and their professional duties. The retiring Governors have generously contributed their time and talent to the affairs of the Foundation and to the formulation of Foundation policies.

I know that you would like me to particularly express our appreciation for the loyal service of Robert H. Walker, Q.C., who retires as Past-Chairman. He first served on the Board from 1968 to 1970. He was re-elected in 1972 and has since successively held the offices of Vice-Chairman, Chairman, and Past Chairman. On behalf of all Foundation members I extend our sincere thanks to him.

The Presidents of the Canadian Institute of Chartered Accountants and the Canadian Bar Association have nominated the following 12 new Governors to fill the vacancies occasioned by these retirements:

C. Ducharme, Q.C. - Montreal

K.E. Eaton, Q.C. - Halifax

C.E. English, C.A. - Calgary

D.R. Fenwick, C.A. - Winnipeg

A.J. Irving - Winnipeg

R. Law, Q.C. - Toronto

W.M. Leckie - Vancouver

R.J. MacBurnie, C.A. - Moncton

L.A. Martin, Q.C. - Corner Brook

J.S. Palmer - Calgary

R.M. Sedgewick, Q.C. - Toronto

G.T. Tamaki, Q.C. - Montreal



Mr. Tamaki and Mr. Sedgewick are no strangers to the Board. Mr. Tamaki served previously as Governor from 1971 to 1973, and Mr. Sedgewick, in 1957.

#### CONCLUSION

Over the past three decades, the Foundation has performed an invaluable service in the public interest in seeking improvements in the tax system. While much has been accomplished, much remains to be done. Recent years have witnessed the development of a keener and more critical consciousness of taxes and government expenditures. These matters now occupy a much larger place in the government and economic life of the country and the significance of the Foundation as an objective, unbiased research and educational organization is increased accordingly. The extent to which it can carry forward an extended program of activity will depend, of course, on the resources at its disposal. One of the main tasks of the new Board will be to ensure that the vital work of the Foundation is not allowed to suffer because of a shortage of funds.

As retiring Chairman, I should like to express my thanks to my fellow officers and governors for their generous support and co-operation, and to many other friends of the Foundation who participated in conferences, served on committees and helped in so many ways throughout the tenure of my office.

To our Director, Douglas Sherbaniuk, and his very small, hard working and dedicated staff, we all owe a real debt of gratitude. In spite of our continuing shortage of research staff, they have been doing a truly remarkable job in maintaining the full program of publications of the Foundation, expanding the conference program, and conducting all of the other activities of the Foundation in a most efficient and competent manner. I would particularly like to express my own personal thanks to Doug Sherbaniuk for the assistance he has given me during my term of office.

I now move, seconded by John H. C. Clarry, Q.C., the following resolution, namely, that this Report of the Foundation for the fiscal year

ending on December 31, 1975 and the financial statements of the Foundation as of the same date as submitted to this meeting be, and they are hereby, approved and adopted.

April 13, 1976

Kerr Gibson, F.C.A.  
Chairman

Report of the Director  
to the Thirtieth Annual Meeting of the  
Canadian Tax Foundation  
April 13, 1976

The Minister of Finance has announced that the next federal budget will be presented during the latter half of May.<sup>1/</sup> Its contents will be known only to the Minister of Finance, a handful of public servants who participated in its preparation and members of the Cabinet.<sup>2/</sup> If we take recent history as our guide, say, the years since 1971, it is very likely that it will contain a multitude of tax changes, some of a "policy" nature, such as alterations in the tax rates or new incentive measures, and many others of a technical nature, whose purpose is to correct inequities, anomalies, loopholes and similar deficiencies.

The tax changes will be announced virtually as faits accomplis. Although they may affect taxpayers in substantial ways, the public will have had little opportunity to participate in their formulation, for government consideration of amendments to the tax laws takes place behind closed doors, in keeping with the tradition of budget secrecy. It is true, of course, that public consultation has been sought in connection with major tax reform, — the Carter Report in 1967, the White Paper on Tax Reform in 1969, the Reports on the White Paper by the House of Commons and Senate Committees in 1970, the tax reform Bill in 1971, and the 1975 Discussion Papers, dealing with the federal sales tax and the tax treatment of charitable organizations. But there is little public participation in the formulation of tax changes on a year-to-year basis. Moreover, after public policy decisions have been made and translated into technical language, there is a reluctance on the part of government to expose

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1/ Debates, March 31, 1976, p.12318.

2/ For a discussion of the process of budget preparation, see Taylor, "The Budget Process", 1963 Conference Report 134 (Canadian Tax Foundation); Cohen, "Formulation, Enactment and Administration of Tax Changes", 1972 Conference Report 4 (Canadian Tax Foundation); and McIntyre, "Public Consultation Before Major Tax Reforms", International Tax Conference (Singapore, 1974).

drafts of the provisions to the public in advance of implementation, again in the name of budgetary secrecy, even though it has been demonstrated that a careful technical review by tax experts over a protracted period improves the quality of the legislation.<sup>3/</sup>

The constraints imposed by the rules of secrecy have been the subject of critical comment. For example, the Hon. E. J. Benson, when he was the Minister of Finance stated:

"What I would like is for the Minister of Finance to be able to present a tentative basis of his proposal to Parliament for discussion. The way it is now, the Minister of Finance has to present highly important advice from a very small group of expert advisers in a form which the Government can understand, and on this the Government stands or falls, and I think this is wrong." <sup>4/</sup>

The doctrine of budget secrecy may soon be subject to parliamentary review and, perhaps, substantial modification. Two weeks ago, in response to a request for a pre-budget review of the government's economic policy, the Minister of Finance commented:

I think it would be very useful if the House in general could give some consideration to the broader question as to whether the procedures that have been followed historically in this parliament and in Westminster with regard to budgets might be reviewed with the object .... of having a more open scrutiny of the government's economic and fiscal planning, and either in the context of that discussion or perhaps with a special reference to the [Standing Committee on Finance, Trade and Economic Affairs] it would be of value if we could review the budget procedures and decide whether the time has not come now to make such changes in Canada." <sup>5/</sup>

In anticipation of parliamentary consideration of the tradition of budget secrecy it may be useful to examine briefly the scope and rationale of the doctrine

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<sup>3/</sup> Because of the defeat of the May 1974 Budget, practitioners had several months to study the Ways and Means Motion, which was almost as detailed as a draft statute. As a result, the Department of Finance was "...able to benefit from informed comment and to make relevant changes with relative ease. I personally sympathize with the stated desire of the tax profession to have access to technical tax drafts in advance of their being tabled and our experience in 1974 shows the potential benefits. On the other hand, Budgetary secrecy is a very strongly entrenched tradition in our Parliamentary system. There are some obvious dangers in making these drafts public too early but it may be that in the future some acceptable method may be found which will protect the traditional rights of Parliament while at the same time give the citizens the benefit of informed technical commentary." Cohen, "Tax Simplification", 1975 Conference Report (Canadian Tax Foundation).

<sup>4/</sup> Globe and Mail, March 20, 1969

<sup>5/</sup> Debates, March 31, 1976, pp. 12318-19



and, if more open procedures on the budget are to be adopted, particularly greater public participation and consultation in the formulation and review of tax changes, how this objective might be accomplished.

#### The Scope and Rationale of Budget Secrecy

Elaborate measures are taken to ensure that a veil of secrecy surrounds the budget until it is presented in parliament.<sup>6/</sup> Severe consequences have followed in the wake of Budget leaks -- in the United Kingdom, the resignation of a cabinet minister in 1936<sup>7/</sup> and of the Chancellor of the Exchequer in 1947.<sup>8/</sup> Even a departure from the traditional method of preparing a budget has aroused parliamentary ire. You will recall that the Hon. Walter Gordon, in 1963, engaged three advisers to assist him in the preparation of the budget. Each had taken the oath of secrecy. The Opposition asked the Prime Minister to have the matter investigated by submitting it to a standing committee of the House or to a special committee to be set up for that purpose. Mr. Pearson stated that in the absence of any evidence of wrong-doing, a committee of enquiry would not be set up.

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6/ "...I do not think the public generally realize the way in which secrecy has always been a traditional part of the making of a budget. The drafting is done in various sections, no one of which can be connected with another so that one can understand what is being done. Gradually after draft upon draft have been prepared, these are finally brought together and in the office of the deputy minister of finance and possibly one assistant deputy and two or three of the senior private secretaries, the final work of compiling the draft of the budget is done. That is the accepted practice arising out of a long history and a long tradition indicating the absolute necessity of avoiding a leak, consciously or unconsciously and of assuring the public that the Minister of Finance, like Caesar's wife, is above suspicion....we take the precaution of locking up the press gallery until the minister of finance delivers his speech, as today it has an impact on every man and every woman in all walks of life and upon all the facets of our economy." Hon. George Nowlan, Debates, June 19, 1963, p.134;

7/ A tribunal was established by resolution of the House of Commons and the House of Lords "for inquiring into a definite matter of urgent public importance, that is to say, whether, and if so, in what circumstances and by what persons any unauthorized disclosure was made of information relating to the Budget for the present year, or any use made of any such information for the purpose of private gain." Budget Disclosure Inquiry (Cmd. 5184, 1936).

8/ Report from the Select Committee on the Budget Disclosure (H.M.S.O., 1947).

The rules of secrecy have several merits and also some disadvantages, Of paramount importance is the necessity to prevent interested parties from profiting by knowledge obtained in advance, and perhaps also to prevent financial speculation and loss of revenue to the exchequer. If these evils can be thwarted by keeping secret information capable of being used for purposes of private gain, there is little reason why the remainder of the budget should not be publicly discussed. However, such distinctions have not been made, and the veil of secrecy shrouds the entire budget. As one commentator observed:

"There probably is no reason more powerful than habit why most provisions in most Budgets need to be kept secret until the Chancellor unveils them all at once in an immense and boring speech. There certainly is every reason to suppose that most new taxes would have been better if more people has been able to discuss them, and their consequences in advance.

The Treasury has never yet proved that all the mystery is necessary or beneficial.... The Swiss Government is obliged by law to submit any proposals for a new tax to public debate and to a referendum if enough Swiss citizens demand one." 9/

The main disadvantage of the rules of secrecy is the constraint placed on informed public discussion of tax changes. In view of the fact that the budget is one of the main instruments for shaping economic policy, and that tax laws are used not only to raise revenues but increasingly for a multitude of economic and social purposes, the public should be involved in their formulation. Moreover, a proposed tax change may be a highly technical matter designed to deal with a complex situation. The only way in which the practical problems of such a provision can be determined is by getting the taxpayer and tax experts to discuss the proposed change in advance before key decisions are taken.

Another disadvantage of the rules of budget secrecy concerns federal/provincial fiscal relations. A former Deputy Minister of Finance has attributed the lack of fruitful discussion at the federal/provincial committee on fiscal and economic matters, in part, to the inhibitions under which federal officials were operating:

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9/ Guardian Weekly, February 13, 1969.

"In all our discussions of tax reform proposals at that time, except before the Parliamentary Committees, we felt we could give no advance indication of our views respecting possible modifications in the White Paper proposals, for to do so would give an unfair advantage to those to whom we were talking as compared to others. In part too our reticence was due to the traditional need for secrecy in discussing our government tax proposals which has always constrained Federal-Provincial discussions of fiscal matters. These consultants inevitably made us appear rather reluctant participants in discussions of our own proposals, even when we were trying to elicit informed views upon them.

I felt this inhibition was inescapable in this sensitive field. Since then I have wondered whether, if there is more tax reform in future to be discussed with the provinces and others, one could find a different basis for carrying on discussions by doing it all in public on the record as we did in the Parliamentary Committee hearings. Then reporters could be present and everyone would have an equal chance at least in principle to know how government views were developing. Such public discussions however would present other difficulties of their own, particularly for provincial representatives who might not wish their preliminary views to be criticized by experts in public. 10/

#### Relaxation of the Rules of Budget Secrecy

In recent years in the United Kingdom, the government has invited greater public participation in the formulation of tax laws by announcing proposals for change in either White Papers, as in the case of the capital gains tax and the corporation tax, or Green Papers, which were used in connection with reform of the corporation tax and the value-added tax. The difference between a White Paper and a Green Paper was defined by Prime Minister Harold Wilson as follows:

"A White Paper is essentially a statement of Government Policy, in such terms that a withdrawal or major amendment following consultations of public debate, tends to be regarded as a humiliating withdrawal. A Green Paper represents the best that the Government can propose on a given issue, but, remaining uncommitted, it is able without loss of face to leave its final decision open until it has been able to consider the public reaction to it." 11/

A dramatic departure from the traditional use of the budget to announce tax changes occurred last week, when the Chancellor of the Exchequer presented his budget for 1976 - 77. In it, he offered various tax concessions, such as increased income allowances to married couples and single persons, provided that the trade unions agreed by June to restrain their wage proposals next year

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10/ R. B. Bryce, Notes for Talk to Conference of the Institute of Public Administration, Fredericton, September 8, 1972, on "The Work of the Federal-Provincial Continuing Committee on Fiscal and Economic Matters."

11/ Harold Wilson, "The Labour Government 1964-70" (Weidenfeld and Nicholson and Michael Joseph, 1971), p.380, quoted in McIntyre, *supra*, n.1



to an average of 3%. The proposed tax changes, far from being faits accomplis, have thus become a bargaining instrument in the fashioning of economic policy.

As noted earlier, in Canada too, public participation and consultation has occurred in recent years in connection with major tax reform developments: the Carter Commission, which reported in 1967, the White Paper on Tax Reform, in 1969, and the Parliamentary Committees on the White paper in 1970.<sup>12/</sup> The Carter Commission and the Parliamentary Committees held public hearings. The government also elicited the views of the public about the tax reform Bill, in 1971, and the proposals for changing the federal sales tax and the tax treatment of charities as set out in the Discussion Papers released in 1975, although public hearings were not held.

News releases have also been used with increasing frequency by the government as a means of both communicating information to the public about the contemplated tax changes and eliciting responses. In the light of the responses, the Minister of Finance can better determine the form the tax change should take.<sup>13/</sup>

#### Observations and Suggestions

This is not the appropriate occasion for a detailed, protracted discussion of alternative ways of achieving the desired dual objectives of encouraging greater public participation in the tax formulation and review process while at the same time maintaining secrecy of specific tax decisions so as to prevent private gain from advance knowledge. However, I have a few observations and suggestions to offer for your consideration.

1. The use of White Papers, Green Papers and even less formal instruments, such as news releases, for the purposes of informing the public of proposals

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<sup>12/</sup> These events have been fully chronicled and analysed: see Bird, "The Tax Kaleidoscope: Perspectives on Tax Reform in Canada," (1970) 18 Can. Tax Jo. 444; Head, "Evolution of the Canadian Tax Reform", (1973) 1 Dalhousie Law Journal 51; and McIntyre, "Public Consultation for Major Tax Reforms", supra, note 1; and Doern, "The Role of White Papers", The Structures of Policy-Making in Canada (Doern and Aucoin, 1971) 179.

<sup>13/</sup> For a discussion of the use of news releases for these purposes, see Cohen, "Formulation, Enactment and Administration of Tax Changes", supra n. 2, at p. 13

for tax change and stimulating debate and discussion, is highly desirable and should be increased.

2. A forum should be provided for informed discussion of proposals for tax change. Perhaps the House of Commons Standing Committee on Finance, Trade and Economic Affairs is the appropriate tribunal,<sup>14/</sup> or if its current responsibilities would not permit the assumption of additional duties, a separate committee on taxes might be created to study proposals for changes submitted by the government and, perhaps, members of the public. The committee would hear government officials, tax experts and others, and then report on the advantages and disadvantages of a particular proposal.
3. There is a case to be made for setting up an independent tax board or commission or agency within the parliamentary system, whose functions would include reviewing the tax system, setting out the options open to government in the tax field, and suggesting ways in which changes might be made to particular taxes. It could function in combination with the parliamentary committee. A parallel is to be found in the public accounts committee and the independent Auditor General's office. The independent tribunal would set out publicly the suggested options for tax policy.

This process would clarify the options open to the Minister of Finance in the field of tax reform, both for his next budget and for the long-term evolution of the tax system. He would then make his political choices and take responsibility for them.

4. After policy decisions have been made, the government might usefully consult tax experts in the professions and in the business community in

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<sup>14/</sup> The Senate Committee on Banking, Trade and Commerce has rendered invaluable service in providing a public forum for the examination of tax bills. See Cohen, "Formulation, Enactment and Administration of Tax Changes", *supra*, n.2, at p.12.



implementing them. <sup>15/</sup>

5. Detailed tax changes, both in the legislation and regulations, should be made public well in advance of their consideration by parliament so as to ensure that sufficient time is available for scrutiny by tax experts and the general public. There is ample precedent for this practice. The 1947 the revised Income Tax Act and in 1958 the Estate Tax Act were, after first reading, not proceeded with for several months so as to permit extensive and useful public discussion. Many recommendations for change were received, and several adopted. Similarly, the Foreign Affiliate Regulations were published in draft form last year. They have been closely studied by tax experts in practice and industry and discussed at conferences and seminars. The final regulations are in the process of formulation and will doubtless benefit from the public scrutiny. Also, the 1974 Ways and Means Motion, which was almost as detailed as a Bill, was subjected to close study by tax experts for a period of several months. Better legislation emerged as a result. <sup>16/</sup>

I commend for your consideration the Briefs submitted in the last four years to the Ministers of Finance and National Revenue by the Joint Committee on Taxation of the Canadian Bar Association and the Canadian Institute of Chartered Accountants. The Committee has made numerous suggestions and recommendations for far greater participation of the taxpaying public in the tax change process, for more involvement of representatives of the professions and industry in the formulation of detailed tax rules, and for greater opportunity for public scrutiny of technical income tax amendments before they are finally introduced in the House of Commons.

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<sup>15/</sup> The Joint Committee on Taxation of the Canadian Bar Association and the Canadian Institute of Chartered Accountants, in their 1972 submission to the Ministers of Finance and National Revenue, recommended the appointment of a Tax Advisory Council to advise the Minister of Finance on the implementation of tax policy once arrived at. Its membership could be drawn from the legal and accounting professions and others knowledgeable in the workings of the tax system. Its main function would be the practical implementation of policy into legislation with the least disruption of accepted business and personal practices. The recommendation was not accepted.

<sup>16/</sup> See supra, note 3.

It would be remiss on my part if I were to leave the impression that there had been any reluctance on the part of officials in the Departments of Finance and National Revenue who are responsible for tax policy and administration to entertain recommendations for change. Nothing could be further from the truth. Within the constraints imposed by the present rules of budget secrecy, they have been most receptive to suggestions for change and willing to participate in the free exchange of views.

6. Since it is "open to the government of the day to introduce a bill amending the Income Tax Act without resort to the special procedure surrounding a budget debate",<sup>17/</sup> it would be desirable in certain circumstances to introduce changes — for example, highly complicated provisions relating to corporate reorganizations — separately from the budget, so as to relieve the pressure which preparation and presentation of a budget impose on all parties concerned and also to provide more ample opportunity for scrutiny of the changes.
7. I should like to reiterate a point that I made in my report to the Annual Meeting last year, namely, that "Perhaps the greatest single aid to the understanding of future tax changes by taxpayers and their advisers would be an explanatory brochure or press release issued at the time the Minister of Finance delivers his Budget Speech, which outlines the purpose of each tax change included in the Notice of Ways and Means Motion." In the United States, extensive reports by congressional committees assist taxpayers to understand the significance of the amendments to the tax laws. Both the United Kingdom and Australia have adopted the practice of issuing an explanatory memorandum setting out the aims of the various clauses in the amending provisions. As one commentator has observed, "The time taken to compile [an explanatory memorandum] must be small compared with the time spent by readers wondering what was the intended effect of the alterations."<sup>18/</sup>

It is doubtless true that the preparation of a budget imposes great demands

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<sup>17/</sup> Cohen, "Formulation, Enactment and Administration of Tax Changes," *supra*, n.2, at p.11.

<sup>18/</sup> [1973] *British Tax Review*, at p.3.

on all persons who participate in it. It may be that a shortage of time and staff makes it difficult for the government to prepare such an explanatory brochure. If so, I believe that members of the legal and accounting professions would be prepared to go to Ottawa, say, a week before the budget, to assist in the preparation of explanatory material. Whatever measures were thought necessary to prevent private gain from premature disclosure could be taken -- for example, the advisers would take the oath of secrecy, and information such as rate changes would not be disclosed to them.

Justice Oliver Wendell Holmes once commentated, "I find a great thing in this world is not so much where we stand, as in what direction we are moving". Over the past decade, we have been moving in the right direction -- towards greater public participation and consultation in the tax formulation and review process. The prospect of more open scrutiny of the government's economic and fiscal planning is to be warmly welcomed.

Let me now continue with the review of our affairs that was begun by the Chairman.

#### PUBLICATIONS AND RESEARCH

Publication is an essential part of the research process. If new information generated through research and analysis is to be of maximum use, it must be widely disseminated, to policy makers, practitioners and the general public.

The Canadian Tax Journal continues to be our keystone publication and is widely read and frequently quoted. Its contents include not only articles and essays on a wide variety of subjects but also several features. The first issue of the Journal for the current year contained three notable developments in the features.

Recent amendments to the Income Tax Act, the draft foreign affiliate regulations and several new treaties have made the tax implications of carrying on business or investing abroad a matter of cardinal importance for many Canadians. The Journal will carry a regular feature on international tax planning from a

Canadian perspective. The editor is Robert D. Brown, F.C.A., senior partner of Price Waterhouse & Co., Toronto. His partners, Robert J. Dart, C.A., and Carl Steiss, C.A., of Toronto and David G. Broadhurst, C.A., of Montreal will contribute to this feature from time to time.

Significant judicial decisions in the tax field will be the subject of comment and analysis in "Current Cases", the successor to "Around the Courts". The editor is Professor T. E. McDonnell, of the Faculty of Law, University of Toronto.

Over the past five years, "Estate Planning in Canada" has attracted a wide following. Sheldon Silver, who has been co-author of the feature since its inception in 1971, has assumed full responsibility as editor. Mr. Silver is a partner in the Toronto law firm of Goodman & Goodman. In keeping with our past practice, the features that appeared in the 1971 - 1975 issues of the Journal were published recently as a separate booklet that is available for purchase from the Foundation.

Two new issues have been added to our series of Tax Papers during the past year. The first is Daniel Ish's study, The Taxation of Canadian Co-operatives. Amendments to the provisions of the Income Tax Act relating to co-operatives were enacted in 1971 as part of tax reform. Professor Ish's study is a timely contribution to our understanding of the status of co-operatives under the new tax regime.

The second Tax Paper is Canadian Tax Reform and Private Philanthropy, by R.M. Bird and M.W. Bucovetsky. The implications of the tax system for charitable activities have been made particularly topical by the recent Discussion Paper, released with the federal Budget of June 23, 1975, which proposes a number of changes in the income tax provisions applicable to charitable organizations. Professors Bird and Bucovetsky are concerned with the obverse side of the coin -- the effects of the income tax and death duties on those who give to support charities. The study examines in some detail the three most important tax developments explicitly affecting philanthropy over the last decade of tax reform: (1) the increase in the amount deductible as a charitable contribution for income tax purposes;



(2) the introduction of a capital gains tax, with deemed realization at death or gift; and (3) the closely-related changes in federal and provincial death taxes.

The 1975 - 76 edition of The National Finances was distributed to members in March. This is the only publication that presents a succinct and lucid exposition of the federal government's revenues and expenditures.

Our biennial companion piece, Provincial and Municipal Finances, which analyses the revenues and expenditures of provincial and local governments, was published last fall. Although we print sufficient copies to satisfy anticipated requests over a period of two years, our supply of the 1975 edition has been substantially depleted by quantity orders for 750 copies that we received from eight investment houses in Canada and the United States. They distributed the copies to clients who were seeking up-to-date information on the fiscal affairs of the provinces.

Another issue in the Tax Memo series was distributed last week: a compilation of tax developments in Canada in 1975, as reported in the Journal feature, "Checklist". It covers federal and provincial Budgets, amendments to legislation and regulations, and non-budgetary tax changes. The purpose is to bring all of this material together in one place for convenient reference. It is our intention to publish such a compilation annually. In order to ensure that it is serving the needs of members, or if it is not, to determine how we can improve it to make it more satisfactory, a questionnaire was included with the Tax Memo, requesting comments and suggestions for change, both in "Checklist" and in the compilation.

The proceedings of our conferences are not ephemeral affairs but are recorded permanently in the form of Conference Reports, which contain copies of all papers presented. The Reports published over a period of over more than twenty-five years constitute a valuable library in themselves. Last spring members received the Report of the proceedings of the 1974 Annual Conference, and early this year, the Report of the 1975 Corporate Management Tax Conference, the distribution of which was held up by the mail strike last fall. As the Chairman noted, the Report of the 1975 Annual Conference will likely be published late next



month.

A detailed Index of the publications issued by the Foundation between 1945 and 1971 was mailed to members yesterday. We had planned to release it several months ago, but delayed publication in order to make a number of revisions that will make it more convenient to use. The major responsibility for this painstaking and demanding project was borne by Millie Goodman, with the assistance of other staff members. In particular, John McHugh, our former editor, spent many days preparing the manuscript for publication. The Index contains not only a detailed breakdown of subject matter, but also an author index and an index of cases. We are confident that it will make the wealth of information contained in the Foundation's publications more accessible and therefore more useful. A supplement to the Index, covering 1972 - 1974 publications is in preparation.

While 1975 was a full year, 1976 promises to be even busier. Professor Richard Bird's study, Charging for Public Services: A New Look At An Old Idea, is in the final stages of publication. There has been little investigation of the "benefit principle" of financing public spending, which relates government expenditure to the taxes that finance them: for example, imposition of provincial fuel and motor vehicle taxes to finance expenditures on highways. A number of proposals have been made in recent years for benefit financing of post-secondary education, urban transportation and health care. Professor Bird's study includes a survey of the existing situation in Canada with respect to earmarking and benefit financing at all levels of government and concludes with an examination of the scope for expanded use of benefit-related taxes.

Professor Meyer Bucovetsky is proceeding with his timely study, On Making the Tax System Inflation Proof. It includes an examination of such questions as the use of indexation for off-setting the effects of inflation on capital gains, capital cost allowance and debt instruments, and analyses the experience of other countries that have used this fiscal device.

Professor Brian J. Arnold has undertaken a comparative study of the relationship between income taxation and accounting concepts, particularly in the measurement of business profits. The project involves an examination of

the jurisprudence, statutory provisions and administrative practices in Canada, the United Kingdom and the United States. Professor Arnold is spending the current academic year at Oxford University, working on the U.K. aspects of the project.

The preparation, by Horst Wolff, of three essays on certain aspects of income tax evasion and avoidance, including a historical review of these concepts in Canadian legislation, is still in progress.

In the field of public expenditures, Professor Douglas G. Hartle is nearing completion of his study of the federal budgetary process. Professor Hartle served as Deputy Secretary of the Treasury Board from 1968 to 1973 and brings to his task extensive knowledge of the subject of his enquiry.

The preparation of a Tax Memo supplement to Provincial and Municipal Finances, covering the 1976 provincial budgets, is underway and, later this spring, work on the next edition of The National Finances will commence.

Various other projects of a long-term nature are under preliminary study.

#### STAFF

There were three departures from the staff and a number of appointments in 1975 and the early months of this year.

Last November, Gwyneth McGregor retired from the Foundation after more than twenty years of devoted service. From 1952 to 1970 she served in many capacities, including those of editor, author, and conference participant. In 1974 she returned in a consulting capacity on a part-time basis. She is best known for her popular feature, "Around the Courts", which became an institution in Canadian tax circles. Gwyneth carries with her the best wishes of all her colleagues.

John McHugh, who served as Editor for two years, left in November to accept a position with the Ontario government. The appointment of his successor will be announced in the near future.

Margaret Lally the Assistant Librarian, retired in December. She

had assumed full responsibility for the library late in 1974, when the Librarian, Anatole Bazylewycz, relinquished his duties because of severe illness.

I am pleased to report the appointment of Marjorie Robinson as Librarian. She is highly qualified and widely experienced in all phases of library work. Within a matter of weeks after she joined us last September, she prepared a comprehensive report on the library, which recommended a number of substantial changes. These are now being implemented.

Marie Bélanger joined the staff as Research Associate last summer, having previously served with the Department of Finance of the Province of Quebec. Her duties will include assisting in the preparation of The National Finances and Provincial and Municipal Finances.

Recent appointments include Nestor Roldan, as Assistant Librarian, and Bibi Mahadeo, who provides secretarial services in connection with membership and library affairs.

Other members of the staff are by now familiar figures to many of our members. On our capable research team are David Perry, Mary Gurney and Millie Goodman. From my review of our publications, you will appreciate that the last year has been a busy and productive one for all of them. On the equally important administrative side of our operations are Jack MacLeod, the Secretary and Treasurer of the Foundation, who takes credit for the efficient and prudent management of our finances; Tina Vandermeer, Associate Secretary, who has carried a heavy load in helping with membership affairs, the administration of conferences and also editorial matters, pending the appointment of a new editor; our helpful secretaries, Thora Harris, Anne McAlonen and Evelyn Thompson; and Roy Wilson, assistant to Mr. MacLeod. The Annual Meeting affords me an opportunity to express publicly my thanks to all my colleagues on the staff for the co-operation and warm support they have invariably extended to me.

In conclusion, I must express my sincere appreciation on behalf of the staff for the interest and encouragement of the Board of Governors and of the members at large. On a more personal note, I want to say how much I have enjoyed a most cordial and congenial association with our Chairman, Kerr Gibson,

and the other officers and governors. I welcome the incoming Board of Governors and assure them that the staff will do its utmost to ensure another successful year under their direction and guidance.

April 13, 1976

Douglas J. Sherbaniuk  
Director







