

rent prepayments. Few of them have experienced tax personnel on their payrolls, nor do they have the budget experts to provide the necessary information even if they did have the tax experts. I can tell you from our own experience that it is difficult enough for large corporations to estimate their incomes almost a year in advance but at least they have trained budget, tax and accounting employees. In fact, it is difficult enough for most businessmen to have income tax returns prepared and filed *after* the end of the year, for any corporation, large or small, without having their attention distracted by a Government requirement that they enter the forecasting field, instead of concentrating on the need to make profits. The ease of collecting prepayments, from the Government standpoint, should not be allowed to obscure the corporate taxpayer's practical problems with the estimation procedure.

EXCESSIVE PENALTY FOR UNDERESTIMATION

If this burden is imposed upon the small corporation, the penalty for lack of skill is unnecessarily severe. A poor shot results in an underpayment which causes more than shame for poor marksmanship. This unsteady hand produces a sharply defined penalty of 6% for the period of the underpayment—not a 6% deductible interest charge for an inadvertent "loan" from a gracious Government, but a nondeductible penalty more like a 12% simple interest charge. A 6% nondeductible penalty for an honest mistake in estimating something that often is simply impossible to estimate with any accuracy seems to me harsh and severe.

HARD TO AVOID PENALTY

Some will say that there is no need to worry about a penalty, even though unnecessarily harsh, since the statutory pattern of estimation offers several ways to avoid penalties, escape clauses, if you will. For example, no penalties will apply, even if the entire target is missed, and not just the bulls-eye, if the estimated tax paid is at least as large as the actual tax for the prior year. As a practical matter, however, this is small comfort to the businessman whose corporate purse is slim and who cannot afford to overpay estimated tax just to avoid a possible penalty. His company needs every possible dollar of working capital in order to produce an ultimate profit for the year, a goal also necessary for any permanent benefit to the Government. There is hardly any advantage to the Government in unnecessarily stripping him of working capital during the year only to find that the corporation has been unable to make a profit for the year. This results only in eventual refund of tax prematurely collected. The other major so-called "escape clause" involves predicting the corporate tax with-in, as proposed, 80% of the final actual tax and this is equally unrealistic for many smaller corporations. All escape clauses have the disadvantage of requiring the taxpayer to prove his way out of danger.

Perhaps the proposed extension of the estimation requirement to smaller corporations will be defended on the ground that it already applies to the individual proprietor who is unincorporated. This may be logical to some, but to me it is an application of what I would call the doctrine of "shared misery." If B is in a sinking boat, should we take A out of his sound ship and put him into the leaky boat so that both may perish in happy uniformity?

There were good reasons for the \$50,000 floor originally proposed in 1954. The Senate Finance Committee was sufficiently impressed with them to increase the floor to \$100,000 where it has remained ever since. The reason is simple and the same today, even using the language of 1954, "... to prevent the hardships which might otherwise be imposed on corporations which are uncertain as to what their income during the taxable year will be." To impose a recurring annual burden on several hundred thousand corporations in order to accelerate, temporarily, the collection of a very small percentage of the total corporate income tax just doesn't seem sensible. I urge you not to extend, to hundreds of thousands of corporations, the rule that they must estimate their income within prescribed limits and pay their income taxes in advance. The result would be to raise the crystal ball and the soothsayer to an undeserved importance and to distract many businessmen from their real occupation which is to create the real earnings upon which income taxes ultimately must be based.

Thank you.

Mr. MENDENHALL. It is a privilege to be able to appear before the members of this committee today in order to protest one provision of the recently proposed tax legislation.