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The Campaign Against Double Taxation *

By Ralph Coughenour Jones

The serious discussion of double taxation, according to Professor Seligman, began early in the thirteenth century. In recent years, however, interest in the subject has become intensified, not because modern tax laws are more unjust and conflicting than the laws of earlier times, but because the rapid extension of business enterprises across the boundaries of states has created new opportunities for double taxation and made the burden more onerous. Double taxation will probably persist to a greater or less extent so long as we have economic interdependence on the one hand and a multiplicity of governmental units with their large spending programs on the other. So complicated are the problems to be solved that seven centuries more in the campaign against double taxation may still fail to bring complete success.

If the prospects of eliminating double taxation are so remote, one may well ask whether the attempt is worth while. It is clear, however, that the campaign must continue unabated if the burden is to be reduced or even prevented from increasing. The situation reminds one of the scene in *Alice in Wonderland*, where Alice, panting a little, says to the Red Queen: "Well, in our country, you'd generally get to somewhere else—if you ran very fast for a long time as we have been doing." And the Red Queen replies: "A slow sort of country! Now, here, you see, it takes all the running you can do to keep in the same place." In the face of a rising tide of taxation it will be no mean achievement merely to prevent an increase in double taxation. It is not a "slow sort of country" in which we live. All governmental units, large and small, are searching for new sources of revenue to help balance tottering budgets, and a rabid nationalism is rampant throughout the world. Only the utmost vigilance can prevent the appearance of new instances of double or multiple taxation.

Before proceeding further it may be well to pause for a moment to consider the meaning of the term "double taxation." "Double taxation in the simplest sense," according to Professor Seligman, "denotes the taxation of the same person or the same thing twice over." (*Essays in Taxation*, 10th edition, New York, 1928, p.

* An address delivered at the annual meeting of the Rhode Island Society of Certified Public Accountants, Providence, R. I., April 17, 1934.

98.) This definition admittedly is too broad. Professor Fred R. Fairchild of Yale University has formulated a definition which corresponds more closely to accepted usage. "Double taxation," he says, "is the imposition of the same tax upon the same object twice during the same fiscal period by the same jurisdiction or by coördinate jurisdictions." There can be no doubt that anything which comes within the limits of this definition is double taxation, and there can be little doubt that it is unjust and discriminatory. Note that according to this definition double taxation does not occur when both a state and the federal government levy a tax upon the same income. Here the jurisdictions are not coördinate. The search for an exact definition, however, is difficult and perhaps unnecessary. Double taxation in this paper will be used in the sense of Professor Fairchild's definition. It is this type of double taxation which we are seeking to eliminate. Though double taxation occurs in many forms, I shall devote attention chiefly to the problem as it arises in the taxation of business income.

The need for constant vigilance to prevent the increase of double taxation was well illustrated during the consideration of the revenue bill of 1934. In at least three sections, the bill as adopted by the house of representatives provided new forms of double taxation. Section 131 arbitrarily reduced by one half the credit for taxes paid abroad; section 403 imposed upon American citizens resident abroad the full federal estate tax on all property, real as well as personal, wherever situated; and section 104 authorized the president, in certain circumstances, to double the taxes of each citizen and corporation of a foreign country. Strong protests by the committee on double taxation of the American section of the International Chamber of Commerce, the treasury department and others led to the adoption of amendments correcting the worst features of sections 131 and 403 of the house bill, but section 104 remained essentially unchanged.

The credit for foreign taxes is necessary in the United States as a measure of partial relief from the double taxation which would otherwise result from the inconsistency of taxing at the same time all income having its origin in the United States and all the income of American citizens, residents and corporations, regardless of origin. It would be better in many ways to avoid double taxation by exempting all income, or at least all business income, having its origin in another country, but such a move might not be feasible politically. The present provision, however, is wrong

psychologically in that it creates the impression that the government is granting a special favor to certain taxpayers who are generally assumed to be large corporations. The opposite, of course, is true. It is no special favor to receive a credit against a tax which should never have been levied, particularly when the credit under certain conditions is less than the tax on the income earned abroad. The assumption that the credit is primarily beneficial to large corporations is also of doubtful validity. Such corporations usually derive a relatively small proportion of their total income from foreign sources and they are, as a rule, in the best position to avoid a double tax by means of subsidiary companies or other devices. Companies of moderate size engaged principally in international trade would be more apt to suffer heavily from the elimination of the credit.

In any event, the elimination of the credit would simply add another impediment to the revival of foreign trade, with little, if any, increase in revenue. The action of the house in seeking to reduce the credit by one half was obviously an illogical compromise. It recognized the principle and at the same time denied its application. The full credit was continued in the revenue act of 1934, but the struggle to prevent its emasculation will undoubtedly have to be resumed when future revenue bills are under consideration.

The amendments to the estate tax, section 403 of the house bill, constituted deliberate double and probably confiscatory taxation of the estates of decedent citizens resident abroad, possibly with the intention of punishing expatriates. These amendments violated the generally accepted rule that the country in which a person has his residence is entitled to tax the entire estate, except real property situated elsewhere. They violated also the almost universal rule that real estate is taxable only in the country in which it is situated. Section 404 of the act as finally adopted, however, does exclude real estate situated abroad from the gross estate of decedents, but apparently in the case of non-resident citizens the full estate tax must be paid on other property situated abroad.

With respect to section 104 of the bill, the following recommendation was made:

"The committee on double taxation of the American section of the International Chamber of Commerce recommends that if section 104 of the bill is to be adopted, it should be amended so as

to cover the matter of allocation of income and also to permit the executive branch of the government to enter into agreements with foreign countries looking toward the elimination of discriminatory taxes and providing for equitable methods of allocating income for the purpose of taxation among the several countries in which the activities occur."

Section 104 of the bill became section 103 of the act, but the spirit remained the same. Section 103 provides, in part, that "whenever the president finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the president shall so proclaim and the rates of tax imposed . . . shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country. . . ." This section is, of course, designed to protect American interests, but even the most elementary knowledge of human nature suggests that it is much more apt to evoke retaliation than coöperation. A real advance in reducing double taxation could have been made, however, if the president had been given the power to make reciprocal agreements with other nations as well as to threaten them. If the president is to have the power to punish discrimination by other countries, he should, it would seem, be given the power to remove any discrimination against their nationals which may appear in our own law. He is now in the anomalous position of being able to punish others for abuses which he is unable to remove from the laws of his own country.

The reference to agreements with foreign countries arises no doubt from the interest of the International Chamber of Commerce in the efforts of the League of Nations to reduce or eliminate double taxation. It was the international chamber, as a matter of fact, which started in 1919 a sustained movement to reduce international double taxation. The active direction of this work was later assumed by the League of Nations.

The first step in the league's campaign was a careful analysis of the economic fundamentals of the problem prepared by Professor Bruins of Holland, Senator Einaudi of Italy, Sir Josiah Stamp of England and Professor Seligman of Columbia University. Their report was published under the date of April 5, 1923. Subsequently, the whole problem was studied at a general meeting of government experts on double taxation and tax evasion, and

their report was published in October, 1928. It contained, among other things, three model bilateral conventions, Ia, Ib, and Ic, for the use of states wishing to reduce double taxation by treaty. Three drafts were thought to be necessary because of the different types of fiscal systems existing in various countries. Several treaties have since been drawn along the lines of these model conventions.

It was apparent, however, that a more complete study of the problem was needed and, largely through the efforts of the late Dr. T. S. Adams of Yale, a grant of $90,000 was obtained from the Rockefeller Foundation to finance a thorough investigation. Mitchell B. Carroll, former special attorney in the United States treasury department, was appointed to direct the inquiry. The results of this study have since been published in five volumes. The first three volumes contain descriptions of the tax systems of 23 countries and three American states, written by the tax administrators or experts in each country or state. These descriptions, naturally, will soon be out of date as to details, but they give a good picture of general fiscal policies which will probably be fairly permanent. Volume IV contains Mr. Carroll's summary of the whole survey, and volume V contains my own study of some of the accounting aspects of allocation.

The survey made by the League of Nations reveals a substantial agreement among the authorities of the several nations on a number of important points. It is generally agreed, for instance, that business income should be taxed only in those countries in which permanent establishments of an enterprise are located, and the term "permanent establishment" has been defined with considerable care. It is generally agreed, moreover, that the rental of land, royalty on mines and other income definitely relating to land should be taxed in the country in which the land is situated. Serious difficulties still exist, however, between debtor and creditor countries with respect to the taxation of interest, dividends and the like.

After the conclusion of the survey by the League of Nations, the fiscal committee adopted a draft convention for the allocation of business income between states for the purposes of taxation. This convention and the three model bilateral conventions previously mentioned provide the machinery for making allocations of practically all types of taxable income between countries which are disposed to eliminate double taxation by agreement. Several

bilateral treaties have already been made, and it is to be hoped that the latest draft convention on the allocation of income will likewise be favorably received. If the countries of the world succeed in reaching some workable solution to the more pressing problems of currency stabilization and tariffs, it is not improbable that they will turn their attention again to the problems of double taxation.

Even though the proposed draft convention were generally adopted, some difficult problems of allocation would still remain. The convention states the principle which is to govern allocations of business income, but does not prescribe methods in detail. The draft convention definitely adopts the principle of separate accounting as standard and provides optional methods to be used only when the separate accounts of the permanent establishments of an enterprise in one of the contracting states do not fairly reflect the income allocable thereto.

Article 3 (draft convention adopted for the allocation of business income between states for purposes of taxation):

"If an enterprise with its fiscal domicile in one contracting state has permanent establishments in other contracting states, there shall be attributed to each permanent establishment the net business income which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions. Such net income will, in principle, be determined on the basis of the separate accounts pertaining to such establishment. Subject to the provisions of this convention, such income shall be taxed in accordance with the legislation and international agreements of the state in which such establishment is situated.

"The fiscal authorities of the contracting states shall, when necessary, in execution of the preceding paragraph, rectify the accounts produced, notably to correct errors or omissions, or to re-establish the prices or remunerations entered in the books at the value which would prevail between independent persons dealing at arm's length.

"If an establishment does not produce an accounting showing its own operations, or if the accounting produced does not correspond to the normal usages of the trade in the country where the establishment is situated, or if the rectifications provided for in the preceding paragraph can not be effected, or if the taxpayer agrees, the fiscal authorities may determine empirically the business income by applying a percentage to the turnover of that establishment. This percentage is fixed in accordance with the nature of the transactions in which the establishment is engaged

and by comparison with the results obtained by similar enterprises operating in the country.

"If the methods of determination described in the preceding paragraphs are found to be inapplicable, the net business income of the permanent establishment may be determined by a computation based on the total income derived by the enterprise from the activities in which such establishment has participated. This determination is made by applying to the total income coefficients based on a comparison of gross receipts, assets, number of hours worked or other appropriate factors, provided such factors be so selected as to ensure results approaching as closely as possible to those which would be reflected by a separate accounting." (League Document C.399.M.204. 1933, II, A(F/Fiscal 76).)

If the separate accounts are unsatisfactory, the tax authorities are expected to try, first, to rectify or to adjust the accounts and, failing this, to determine the income empirically by the percentage of turnover or gross profits method. Only as a last resort are they to make a fractional apportionment of the entire net income of the enterprise.

The soundness of the procedure here outlined is generally recognized throughout the world, not only by accountants but also by business men, lawyers and tax officers. The method of separate accounting effectually eliminates the reporting of a single item of income in more than one jurisdiction; it simplifies the preparation and the verification of tax returns, since only the figures of a single establishment need be considered; and, if honestly used, it produces more accurate results by reducing the zone of uncertainty which is inevitably present in all apportionments. General apportionment, on the other hand, places upon international enterprises the burden of reporting on their world-wide business to many countries with different currencies and laws. The results, moreover, can not be accurate. All apportionment fractions allocate profits in a uniform ratio to all establishments of an enterprise, and yet if there is one certainty it is that the profits of different establishments do vary—in rate as well as in amount. Certain establishments may earn profits while others suffer losses, but an apportionment fraction always assigns profits to all alike.

During the league's investigation of allocation methods, services of great value were rendered by a special committee on international double taxation of the American Institute of Accountants, with which it was my pleasure to be unofficially associated. It was the primary concern of this committee to prevent the

adoption of unsound principles of allocation. It was not particularly concerned with detailed methods. The principle which the committee recommended in its statement of April 25, 1931, however, has now been adopted and the time for the development and refinement of methods is at hand. Research on the theoretical aspects of the problem is needed, but even more important is the practical application of methods already known. In the final analysis, each enterprise must be treated as an individual problem.

The concept of taxing each separate establishment as if it were an independent enterprise engaged in the same or similar activities is simple enough, but the application of the principle raises a host of difficulties. It will not be easy to install systems of accounting adequate to convince doubting tax officers that intra-company transactions are priced as if they were made "at arm's length." The evidence, nevertheless, indicates that even now, without the benefit of the draft convention, separate accounts which are honestly and fairly set up are rather generally acceptable to tax authorities.

The Allocation Problem Within the United States

The problems of double taxation and allocation, however, are not restricted to the international field. They arise in the greatest profusion within the United States. To most taxpayers and accountants, indeed, the domestic problems are apt to overshadow the international ones, especially since foreign trade has dwindled to a mere trickle. Some twenty-six states now have income-tax laws, and, of these, twenty-four tax corporate net incomes. Because additional states are adopting the income tax almost every year, the magnitude of the problems to be faced should be evident.

The internal situation is affected by two important factors not present in the international sphere: namely, the practice of doing business with little regard for state lines, and the federal form of government under which presumably sovereign states are bound by a constitution as interpreted by the supreme court. The first factor makes allocation difficult because the economic relationships between states have become both numerous and intricate; the second impedes the process of adjustment which would certainly occur if the power of taxation were centralized in the national government and might occur if the states had treaty-making powers.

The personal income-tax statutes, with only one or two exceptions, follow the federal law and levy a tax on all income originating within the state and on the entire income of residents, regardless of origin. If this practice continues as additional states adopt the income tax, the burden of double taxation will materially increase. The corporate income tax, however, applies as a rule only to income having its origin within the state. Only three or four states, Arkansas, North Carolina, South Carolina, and possibly Mississippi, have provisions under which domestic corporations may be taxed on their entire net incomes from sources both within and without the state. Every state law levying a tax on corporate net incomes, however, must provide some means for making allocations, and it is this problem which will now be considered.

In the United States general apportionment has been by far the most popular method of allocation. Most of the states, however, are willing to accept returns based on a separate accounting if the taxpayer can show that his accounts do reasonably reflect the income having its origin within the state. The prevalent use of apportionment fractions is due not so much to a general preference for this method as it is to the lack of any other that can be generally applied. A number of tax administrators prefer the method of separate accounting in theory, but the flow of business across state lines makes its use difficult and in some cases impossible. Apportionment fractions have been introduced, therefore, as a matter of administrative necessity. While these fractions will not, except by coincidence, allocate the income of any given corporation accurately to the various states in which it is earned, they will, if uniform, effect a reasonable apportionment on the average. Let me emphasize the point—they can be made to operate reasonably on the average, but they can not be made to produce accurate allocations of the incomes of individual enterprises. This fact, in the light of recent supreme court decisions, is of considerable importance.

Various committees of the National Tax Association have devoted much time to the search for an ideal apportionment fraction. All apportionment fractions, however, merely serve to cut the Gordian knot of complex economic relationships; therefore, in the theoretical sense there can be no such thing as an ideal fraction. The best fraction is the one which most nearly meets the following practical qualifications:

1. Uniformity.

2. Reasonableness.
3. Simplicity and ease of administration.
4. Constitutionality.

As a means of eliminating double taxation, uniformity is by far the most important. Though the importance of uniformity has long been recognized, until recently little progress had been made toward securing it. There is, however, one formula which stands a fair chance of general adoption, namely, the Massachusetts formula. It has been used with general satisfaction to both taxpayers and the state for over ten years. Five states have already adopted it, and six others are using fractions which do not differ greatly in result. The formula may be stated thus:

$$\underline{\frac{\text{Mass. tangibles}}{\text{Total tangibles}} + \frac{\text{Mass. payrolls}}{\text{Total payrolls}} + \frac{\text{Mass. sales}}{\text{Total sales}}} \times \begin{matrix}\text{Allocable}\\ \text{net income}\end{matrix} = \begin{matrix}\text{Mass.}\\ \text{income}\end{matrix}$$

In arriving at the amount of allocable net income, the income reported on the federal tax return is adjusted for differences between federal and state definitions of taxable income and for such items as interest, dividends and capital gains which are allocated directly to sources within and without the state.

This formula takes a middle ground between the extreme fractions which would apportion the total income on the basis of tangible property alone, as in Connecticut, or on the basis of sales alone, as in Tennessee. It is simple, easy to administer and reasonable on its face. Tangible property and payrolls within and without the state can be easily determined. The sales factor may offer some difficulty in this respect, but apparently it must be included for political reasons. The general adoption of the Massachusetts formula would unquestionably constitute an important advance in the campaign to eliminate double taxation.

Were it not for the constitution and the United States supreme court, it might be feasible to concentrate all effort into the attempt to secure uniform methods of apportionment among the states. The apportionment of the net income reported to the federal government is so much simpler than separate accounting that it might well be preferred by taxpayers, as well as tax officers, if uniform methods were once introduced. The Supreme Court, however, in *Hans Rees Sons Co.* v. *North Carolina*, 51 S. Ch. 385, has ruled that no apportionment, no matter how fair the fraction may be in its general application, will stand in any individual case in which the taxpayer can prove that the income actually

originating within a state is less than that apportioned thereto by the fraction. This rule is perfectly sound, but nevertheless it places the states in a difficult position. They can not depend entirely on apportionment fractions because of the rule. They can not compel all returns to be made on the basis of separate accounts because such accounts simply are non-existent in most cases. And if they accept returns based on either a general apportionment or a separate accounting, the taxpayers will naturally take the more favorable option and an unascertainable amount of corporate net income will avoid state income taxes altogether.

The position of the accountant, however, is reasonably clear. If the statutory method of apportionment in any state allocates to that state substantially more than the net income actually earned therein, he should prepare the tax return on the basis of a separate accounting for the establishment operating within the state. In so doing, the accountant will not only be serving the interests of his client but he will also be contributing something toward a final solution of the problems of allocation. The profession should not, and we believe does not, condone the use of biased accounts or other devices to evade the payment of a reasonable tax, but certainly it could not be a violation of even the strictest code of ethics to insist on reporting the taxable income actually derived from operations within a given state.

The term "separate accounting" is somewhat vague and does not refer to any particular method. It carries the implication that the different branches or divisions of an enterprise are to be treated as nearly as possible like independent business units. To the author, however, separate accounting is simply a method for determining the income attributable to particular establishments with a maximum of direct allocation and a minimum of apportionment. In other words, it is place accounting based on direct charges and credits for goods and services given and received. This requires the use of quoted market prices and other independent criteria wherever possible as means of reducing or eliminating the amount of income or expense which would otherwise have to be divided by apportionment.

Items which can be specifically assigned to one particular state are rentals, royalties, interest and dividends received, capital gains on property which has a fixed situs, etc. There is another class of income which can be specifically assigned: namely, income from ventures not directly connected with the principal business

being carried on in two or more states. It has been held, for instance, that where one company owns and operates two distinct lines of railroad, one within and the other without the state, the state can not apply its allocation formula to the entire net income of the company, but must tax only the income of the line within the state. (*Piedmont & N. R. Co.* v. *Query*, 56 F. (2d) 172.) Likewise, in the case of *Palmolive Company* v. *Conway*, 43 F. (2d) 226, it was held that Wisconsin could tax a fair share of the profits from the manufacture and sale of soap, partly within and partly without the state, but could tax no part of the profits of an advertising agency which the company maintained entirely without the state.

After all possible items have been directly allocated in any given case, the remaining net income will be only that amount which in the language of the courts is ascribable to a unitary business. Such income is a true joint product of operations in two or more states. Even this income can, however, be directly allocated by separate accounting where quoted market prices are available for the product in the different stages of production and distribution. This contention is supported by at least three decided cases: *Standard Oil Co.* v. *Thorensen*, 29 F. (2d) 708, North Dakota; *Standard Oil Co.* v. *Wis. Tax Comm.*, 197 Wis. 630; 223 N. W. 85; *Buick Motor Co.* v. *Milwaukee*, 43 F. (2d) 385, Wisconsin.

The evidence in the two oil company cases showed that the profits earned on sales in each of the states could be determined accurately by charging current market prices for oil to the distributing branches. The courts held that the states could therefore tax no part of the profits due to the functions of producing or refining. They could not, in other words, apply an allocation fraction to total company income. The results in the Buick case were similar though the details were different. The manufacturing company in Michigan had organized a wholly owned sales company which had agreed to handle the distribution of Buick automobiles throughout the world for a fixed annual profit which was merely nominal in amount. Since Wisconsin's apportioned share of this profit was clearly unreasonable as the taxable profit on the sale of several million dollars' worth of automobiles, the tax commission audited the accounts of the distributing agency within the state and found that the amount of profit from Wisconsin operations could be determined by charging cars to the agency at regular dealer prices. The commission found, more-

over, that the company actually made the charges on this basis in its own accounting and arbitrarily reduced the profit to the agreed amount by adjustments at the end of each year. Needless to say, the court upheld the tax commission in its determination. These cases make it clear that the courts will compel, or at least have compelled, tax commissions to recognize separate determinations of profit when apportionment is manifestly unjust to the taxpayer. They will also uphold an assessment based on an examination of the separate accounts of a branch where it is clear that only thus can a proper allocation of income be made.

The question still remains, however, whether allocations can be made by separate accounting if there are no quoted market prices or recognized dealer prices. In my opinion, allocations by accounting methods can still be made in many instances. To illustrate, let us suppose that a Rhode Island manufacturing company effects sales through branches in Massachusetts. If it bills its product to these branches at manufacturing cost, including normal factory overhead, it is obvious that the profit allocable to Massachusetts can not exceed the gross profit on Massachusetts sales less the operating expenses of the branches in Massachusetts. If nothing remains, no profit can properly be assigned to Massachusetts even though the enterprise as a whole is profitable and would, under the apportionment method, have to pay a substantial tax in Massachusetts. The state tax commission would, no doubt, recognize this fact. If a profit remains, however, after deducting the Massachusetts expenses, only part of it should be taxed there. The other portion represents the so-called manufacturing profit attributable to operations in Rhode Island.

This problem of making a separate determination of manufacturing profit and selling profit is a fascinating one. Unfortunately it can never be completely solved, for profit, after all, is the result of the manufacture and the sale of goods, not the result of either function alone. Profit of this kind must be apportioned unless an intermediate price is fixed on the open market or by the customary margins allowed to independent dealers. In making this apportionment, however, it is not necessary to apportion the entire net income of the business. A much more accurate apportionment can be made on the basis of the component elements entering into the ultimate selling price of the goods. Let us suppose that the Rhode Island Manufacturing Company sold $1,000,000 worth of goods through its branches in Massachusetts, and an-

other $1,000,000 worth through its branches in Wisconsin. A careful analysis of these sales, we may assume, reveals the following facts:

	Mass. sales	*Wis. sales*
Sales	$1,000,000	$1,000,000
Less cost of materials	300,000	300,000
Value added in manufacture	$ 700,000	$ 700,000
Conversion cost	$ 400,000	$ 400,000
Distribution cost	200,000	400,000
Total operating costs	$ 600,000	$ 800,000
Net profit (loss)	$ 100,000	($ 100,000)

Since two-thirds of the operating costs assignable to the goods sold through Massachusetts branches were attributable to the manufacturing function and one-third to the selling function, it seems entirely fair to allocate two-thirds of the profit, or $66,667, to Rhode Island and one-third, or $33,333, to Massachusetts, assuming that all distribution costs were incurred in Massachusetts. Whether the loss on Wisconsin sales should be divided equally between the factory and the sales branches or assigned entirely to the state of sale is a moot question. It is clear, however, that no profit whatever should be allocated to Wisconsin. Paradoxically enough, the Massachusetts formula, and other general apportionment fractions as well, would ordinarily assign more profit to Wisconsin than to Massachusetts. The sales were identical, tangible property may well have been the same, and salaries and wages in Wisconsin almost certainly exceeded those in Massachusetts since the cost of distribution in Wisconsin was twice as high.

The suggested method for apportioning the joint profit of two or more establishments on the basis of operating costs applicable to the goods jointly handled, thus has one important advantage over all general apportionment fractions. It can allocate profits to some branches and losses to others closely in accordance with actual results, while all general apportionment formulæ necessarily spread profits evenly over all territories. It does, however, require a first-class system of cost accounting, while the other formulæ may be applied to the figures supplied by almost any general accounting system.

In conclusion, the present situation with respect to allocation may be briefly summarized as follows: (a) The method of separate accounting has been definitely adopted by the League of Nations after a far-reaching study of conditions and methods throughout the world; (b) general apportionment on the basis of statutory formulæ is still the prevailing method in use by American states having corporate income-tax laws; (c) but the supreme court of the United States has sustained the right of a taxpayer to make a return on the basis of a separate accounting whenever a statutory fraction results in the allocation of more income to the taxing state than was actually earned therein. The possibilities of separate accounting as a method of allocation thus merit further investigation. If accountants succeed in developing and applying satisfactory methods for the direct allocation of income, they will have contributed much toward the reduction of the present burden of double taxation.

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