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The Law and Practice in Other Countries

SINCE private trusts originated in the UK, it will be useful to compare their interaction with taxation in that country with the Indian experience. The doctrine of separate equitable and legal interests in the same estate preceded the income tax by centuries in the UK, unlike India where they were introduced at about the same time. It is, therefore, obvious that trusts had grown in the UK out of genuine needs that had little to do with taxation. It was only with their increasing involvement in tax avoidance exercises, that family settlements came to acquire an unsavoury reputation. It is difficult to say whether the high rates of tax drove the taxpayers to devise ingenious financial arrangements or the high rates were the consequence, partly or wholly, of the large-scale tax avoidance and evasion with which the United Kingdom has been vexed as much as India. The truth is probably that the damage was mutual, the contribution of sheer cupidity being no less than that of the frustration and despair caused by an unrealistic tax burden.

Conceived at the beginning of its development as a means of getting over the legal prohibition on alienation of property, a settlement in trust turned out to be a convenient, ready-made shelter for conserving income and consolidating property, without being exposed to the onslaughts of the Revenue. The earlier provisions of the income-tax legislation aimed at over-taking and circumventing the efforts made by the taxpayer for the disposal of his property in such a manner that the income from it was not received by him though he retained certain

powers over it or over the income : the efforts were foiled by holding that the income of which the taxpayer tried to disembarrass himself was his income for tax purposes. But as the Meade Committee has pointed out, no effort has been made in the UK to harmonise the treatment of trusts in the taxes introduced from time to time.[1]

The treatment of disposition of income and property in the UK is broadly similar to that prevalent in India. Income from revocable or determinable settlements and those in which the settlor retains an interest is deemed to be that of the settlor. Dispositions which do not last beyond six years are taken to be revocable.[2] The income is assumed to be the topmost slice of the taxpayer's income and liable accordingly to tax at the highest marginal rate appropriate to it. When the settlor retains interest in a settlement made by him, any income which is not distributed is held to be the income of the settlor from the property comprised in the settlement.[3] If the settlement provides for the payment or application of the whole or any part of the income arising from the property covered by it, for the benefit of the settlor or the spouse of the settlor, under a power exercisable at the settlor's discretion, the income is attributed to the settlor.[4] It is immaterial that in fact the income is paid to or applied for some other person. The mere existence of the discretionary power brings the provision into operation.[5] Even capital sums paid to the settlor or the settlor's spouse may be treated as the settlor's income upto the amount of the trust's undistributed income, especially if they reached the settlor[6].

Payments made through settlements, on divorce or annulment of marriage or legal separation or agreement to live apart, are not liable to tax in the hands of the settlor if the settlement is required to be made by a court order. Income from trusts in favour of unmarried children below the age of 18 will be includible in the income of the creators of the trusts, unless they have been set up under court orders. The term "children" includes step-children, adopted children and illegitimate children. Settlements for the children of others or for grand-children of the settlor are not hit, unless there are reciprocal arrangements. Cross settlements, e.g., by two

brothers simultaneously for each other's children, will be taken to constitute a single arrangement and treated as parts of one deed.[7] Income derived from investments made out of payments taxed to the settlor will not be included in the settlor's income.[8] Capital sums and loans received by the settlor from a settlement or a connected body corporate are taken as the income of the settlor to the extent that the settlement has available or undistributed income.[9]

Trustees of a trust are liable to tax in their representative capacity, in accordance with the schedule relevant to the income which they are receiving. The income tax is payable at the basic rate, with an additional 15 per cent charge on the income of discretionary and accumulation trusts. The total tax worked out to 48 per cent in 1978-79 and 45 per cent in 1980-81. The income of the trust attributable to the beneficiary's vested interest in it, is included in his total income, whether or not he has actually received it, the tax paid by the trustees being treated as tax paid by him against this income.[10] Expenses incurred by the trustees of a trust are not deductible from the income computed for tax purposes, but other reliefs for which the income tax law provides will be admissible, as in the case of any other taxpayer. The trust expenses are deductible, however, in computing the income of the beneficiary in the sense that the beneficiary is taxed only on his receipts, as grossed up for the taxes paid thereon.[11] Most trust income is investment income from which tax is withheld at source. Where a business is conducted by a trustee, the income is treated in his hand as unearned income, unless he is himself a beneficiary.[12]

A trustee is not the agent of a beneficiary, except where the beneficiary is incapacitated. He is directly taxed because he is in receipt and control of the income. Even if there is only one beneficiary and he is also *sui juris*, the trustee is assessed to tax for this reason. Any distribution made by a trust will be treated as distribution of income upto the amount of the undistributed income of the trust.[13]

Trustees of a settlement are a single, continuing body, though the persons who happen to be trustees may change from time to time. They will be ordinarily resident in the

UK, unless the trust is administered abroad and the majority of the trustees are not resident in the UK. A resident beneficiary entitled to any income from a trust which has non-resident trustees can be assessed to tax on the trust income : even if he receives a capital payment, he can be taxed on the income of the trustees. Trust management can be done as a business, e.g., by corporate trustees.

Income accruing directly to the beneficiary is taxed in his hands without involving the trust.[14] Annuity payments out of the capital of the trust are the beneficiary's income, whatever their description may be in the trust instrument.[15] In certain situations the income taxed to the beneficiaries may exceed the income of the trust. When beneficiaries are exempt from tax, the trustee may not be charged to tax, on application by them to the revenue authorities.

Discretionary and accumulation trusts have been object lessons in tax avoidance in the UK as in India. As far back as 1965, GSA. Wheatcraft observed that "in Great Britain, it is probably true to say that 95 per cent of all discretionary and accumulation trusts are created solely for tax-saving reasons."[16] Estimates of the value of property settled on discretionary trusts have ranged from £ 200 million by Revell in 1961 to £ 1000 million assumed by Lyddall and Tipping in 1954.[17] However, discretionary trusts have been shorn of most of their attraction by the Finance Act, 1969, the Finance Act, 1970, and the Capital Transfer Tax Act, 1975, and the sharp increase in the rates of tax applicable to them, including income surcharge of 15 per cent.[18]

What had made discretionary and accumulation trusts more popular than specific trusts was that the former did not give the beneficiaries an interest in possession.[19] Where the trustee had also the power to accumulate the income, the beneficiaries could not be taken to have an interest in possession in the settled property, whether the trustee decided to accumulate the income or refrained from doing so. The interest could not go in and out of possession, depending on the trustees' uncertain decisions.[20] Discretionary and accumulation trusts served to reduce the high voltage of tax to which the beneficiaries would have been exposed if they had an

immediate right to enjoy an interest or claim the whole or part of the income from a property in the hands of the trustees. Compulsory accumulation of income under a will or a settlement till the occurrence of a contingency, say the beneficiary's reaching a certain age or marrying, secured not merely a tax deferral but also conversion of the accumulated income into capital for the beneficiary.[21]

Trust property came within the estate duty charge in the UK between 1894 and 1914. A life-estate was taxed at 1 per cent in the initial stages, and later at 2 per cent, before its aggregation with the separate property of the deceased from 1914.[22] The Finance Acts provided for some of the contingencies affecting trusts and also dealt with the possibility of avoidance of duty through dispositions of shares in controlled companies. While control of a company which a person had in a fiduciary capacity was disregarded for the purpose of levy of duty on his death, it would assume significance if he was the sole trustee of his own funds, settled on his family. Where the directors of a company did not have a controlling interest in it, in their own right, they were held to exercise control if they held enough shares as trustees, to make up the balance of power required for the purpose.[23] It was not, however, towards company control so much as the discretionary trust that the ingenuity of the tax-planners was directed. Since no property passed on the death of a "discretionary" beneficiary and there was no new trust for a new group of persons with new qualifications,[24] discretionary trusts offered an easy method of escaping estate duty. Section 36 of the Finance Act, 1969, and section 31 of the Finance Act, 1970, countered it by providing that estate duty should be paid on the death of such a beneficiary on the same proportion of the trust property as the proportion that the deceased had received of the trust income during the seven years before his death.[25] The Capital Transfer Tax, which came into force in 1975 and which is charged whenever an interest in possession terminates or is deemed to have terminated, whatever the duration of the interest might have been, went further. A discretionary trust is liable to pay the tax every ten years as if 30 per cent of its capital has been transferred even if no transfer has actually

been effected. Credit will, however, be available for all the tax so borne when any distribution is in fact made and the tax liability is determined with reference to the distribution. If a settlement made by a domicile in the UK is not locally administered and the majority of the trustees are abroad, there will be an annual charge at 3 per cent on the capital deemed to have been distributed. This annual levy will be available as a credit against the tax payable in any subsequent distribution, including the tax raised on 10-yearly basis. This amounts to collection of the 10-yearly charge in annual instalments. It remains to be seen whether this periodic charge will render discretionary trusts prohibitive and totally uninteresting, as apprehended by a section of the taxpaying public. It has been pointed out in this connection, that it may not be equitable to assess the trusts at relatively high rates even when the rates are likely to be low if the income is to be taxed in the hands of the beneficiaries.

As a result of the increasing fiscal attack on discretionary trusts, accumulation and maintenance settlements which have been receiving a treatment which is less harsh, are reported to be coming up in large numbers. Accumulation trusts become attractive, particularly when they are transferred to or created in one of the tax havens.[26] If an accumulation trust is set up and it has all its assets in a low tax country, there is still scope for considerable reduction of tax liability.[27]

Canada

It is a curious fact that private trusts have been thriving better in the English-speaking countries than elsewhere. In Canada, for instance, trusts have been found to be used primarily by the wealthy and their efforts are directed to avoidance of succession duties on the "inter-generational transfers" of property.[28] Spouse trusts lost their importance with the trend towards the repeal of the provincial succession duties. Tax planners have concentrated in the recent years on more sophisticated channels for reducing tax liability, like trusts controlling corporations, trusts for the benefit of private quasi-charitable foundations, partnership of trusts which distribute their assets to their beneficiaries after winding up the

partnership, etc. The Minister has been statutorily vested with the discretion to treat multiple trusts as a single trust where the corpus has come from one individual and the income of all the trusts will be ultimately enjoyed by the same beneficiary or group or class of beneficiaries.[29]

The Carter Commission[30] went into the functioning of trusts in some detail, and the recommendations made by it included the conferment of an option to the beneficiary to pay tax directly on the income distributed by a trust and the treatment of the initial tax paid by the trust as withholding tax, credit being available to the beneficiary ; no election is possible in a discretionary trust in which the prospective beneficiary is not identifiable. The Commission pointed out that there appeared to be a definite correlation between the size of estates and the use of the trusts : as income and wealth increased, there was a greater flexibility in the mode and timing of gifts. There would ordinarily be no gift tax on reversion, unless the reversion occurred by reason of the release or renunciation of the interest by an intended donee, in which case there would be a completed gift and a gift-back to the original settlor. The Commission was of the view that every trust should file returns of income realised by it or accruing to it, but the ultimate burden of tax on the beneficiaries would be measured by their own ability to pay : the trustees' liability to pay tax would obviously have to be limited to the assets under their control. The Commission considered also various problems incidental to the assessment of trusts, e.g., accumulated income, distribution of capital, carry-forward of losses incurred by a trust, multiple trusts and the possibility of aggregation of income, trusts as tools for income-splitting, etc. As for the residence of trusts, the Commission suggested that a trust should be taxed as a Canadian resident where the majority of the trustees were resident in Canada or where most of the business of a trust was carried on or substantially all of its property was situated in Canada.[31]

Australia

The provisions of the Australian law are broadly similar. Assessment of a beneficiary is made on the basis of his present

entitlement to any interest in the income of a trust. As in the UK discretionary trusts, in which one has only a right to be considered for grant of a benefit by the trustees and one cannot therefore be taken to enjoy an interest of any value, have provided considerable scope for death-duty avoidance. The interest of a deceased in a discretionary trust which continues after his death is not a part of the estate of the deceased. Death duty is also avoided by a settlement expressed to operate upto a specified date calculated to fall a short while after the death of the deceased.[32] It has been held that the settlement does not take effect on the death but on a predetermined date ; and the considerations which have weighed with the settlor in fixing the date are of no relevance in this connection.

Until 1964, income accumulating in a trust was taxed as if it were the income of an individual. Thereafter, an alternative was prescribed by way of tax at a flat rate which was 50 per cent in 1975, in order to discourage tax avoidance practices. The Taxation Review Committee, known as the Asprey Committee,[33] has recommended that the rate of levy on income taxed to a trust should, in general, be the maximum marginal rate applicable to an individual taxpayer. This was expected to operate as a disincentive to the creation of accumulation trusts having tax avoidance as their object.

The United States

Under the law in 1913, trusts in the United States were treated as merely agents of the beneficiaries. The tax was assessed to the beneficiaries. Difficulties arose in cases in which accumulation trusts were set up for individuals not yet born. The fiduciary was then made a taxable entity under the Revenue Act of 1916.

The trust is now liable to tax separately on its retained income on the basis of the rate schedule for married persons filing separate returns. Tax exemption of $ 300 is allowed in the case of a trust that distributes all its current income among its beneficiaries within the year, as against $ 100 available to other fiduciaries. The amount paid to the beneficiaries is deducted from the trust income subject to the over-all limit of

the distributable income of the trust. The balance is taxed to the trust. The prerequisite for the deduction of the income paid to the beneficiaries is that the latter should have disclosed the receipts in their respective returns of income and cleared the tax due thereon.

The methods of tax avoidance practised in the United States have been similar to those elsewhere—multiple trusts for the benefit of the same persons, accumulation and discretionary (called "spray") trusts, generation-skipping settlements, gifts, with reservation of interest and powers of appointment, etc. The author of a trust could control the disposal of the trust income through his reserved powers and also by the appointment of a member of his family, or a friend or a bank as trustee, if he did not himself want to be a trustee.[34] The direct or indirect control enabled him to have the trust income accumulated and taxed for the time being at rates less than those applicable to him. When the accumulated income was distributed, it was taxed, with certain exceptions, to the beneficiaries under an averaging or "throw-back" provisions enacted in 1954, credit being available for the tax, if any, paid earlier by the trust. Despite the throw-back rule, the intervening postponement of tax liability at the highest rate was of advantage in the cases of several families and the advantage could be enhanced through trusts in tax havens. The Senate Committee on Finance Tax Reform Act 1969 suggested, what was in effect, a 6 per cent interest on the tax that was put off if the rate of tax attracted by the trust was less than that at which the beneficiaries were liable, but this suggestion was not pursued because of the tough opposition encountered from trust companies and the tax bar.

As regards the reduction in tax rates that was secured through multiple trusts, it has been countered by taking all trusts that have the same beneficiaries and that are motivated by tax deferral or avoidance, as a single trust for tax purposes.

In the past, there was a tax on the death of the owner of a property but not on the death of a life tenant who had been enjoying the income from the property. A transfer tax has been imposed on generation-skipping transfers by the Tax

Reform Act of 1976, but outright gifts are exempt even if they skip generations. For example, if a property is transferred by G, the grandfather, to a trust for the benefit of his son S for life, with reminder to R, his grandson, there will be a tax on the death of S, determined on the basis of the rates appropriate to the value of the estate of S, after certain exclusions for each child of the grantor. The object is to collect tax to the extent of the tax liability which would have resulted if the property passed from generation to generation.[35]

There is a view that tax considerations may or may not weigh in testamentary trusts but most irrevocable *inter vivos* trusts are tax motivated.[36] Total income of less than a billion dollars had been reported by nearly 360,000 trusts in 1956, and the income taxed in the hand of the trusts was less than $ 700 million, the tax liability being about $ 250 million. Jantscher's inference is that the great majority of trusts for which returns were filed were either testamentary trusts or *inter vivos* trusts created by deceased grantors, and that the amounts of taxable income actually shifted each year from living grantors to trusts or to beneficiaries might be relatively small during that period.[37]

The tax treatment of foreign trusts is somewhat vague and uncertain in the United States. The factors taken into consideration are the residence of the trustees, the place of management and the situs of the trust property.[38]

Other Countries

Trusts are not popular in the European countries where, it would appear, trust income is not ordinarily accumulated. In family settlements, in which the settlor and members of his family hold more than 50 per cent of the income or property, income and wealth tax liabilities arise, even if there is no distribution of income or capital. The income and wealth of the foundation or settlement is assessed as the income of the settlor or the beneficiaries, depending on the facts of the individual cases. In Sweden, the capital is attributed and taxed to the beneficiaries in the case of a specific trust. Assessment is made on the trust itself, as if it is the case of an individual, where it is discretionary and has accumulated

income. While the life-tenant is assessed on the entire corpus in the Scandinavian countries, only 80 per cent of the value of the corpus is taxed in the Netherlands. The actual share of the beneficiary is taxed to the beneficiary, the balance being covered in the hands of the owner.[39]

The treatment of trusts is not uniform in the tax haven countries. Taking the Isle of Man, for instance, the trust itself is taxable at 21 per cent of the income that is accumulated. The beneficiaries are directly assessable, when the income is distributed. The general approach is to look through the trust, for the individual beneficiaries, wherever possible.[40]

There is no country which had found the operation of trusts prepossessing from the tax angle. But the possibilities of the use of trusts as a vehicle for the avoidance of the estate duty have been explored to the maximum extent in the UK, the US, Canada and Australia. Though the English experience has been the longest and most valuable in the income tax, the UK is yet to have a tax on wealth, and it has already abandoned the estate duty for a capital transfer tax, covering all transfers of property, including gifts during a person's lifetime, property that passes on death and all settlements.

NOTES

1. Meade, J.E. (1978), *The Structure and Reform of Direct Taxation*, The Institute for Fiscal Studies, London, pp. 401-10.
2. CTA 1970 : Section 434(2) : A trust does not become inoperative if a beneficiary dies within the 6 years. It does not also become revocable if the settlor does not make a payment due under the settlement deed and the beneficiary does not enforce the payment : Lee v IR 25 TC 485.
3. For the sweep of the term "interest", see IR v Wachtel (1971) 46 TC 543.
4. CTA 1970, Sec. 448.
5. Vandervell's Trusts v IR (H/L) (1967) 1 All ER 1 ; 43 TC 519 where certain shares were transferred to a college and after dividend was declared in respect of the shares, an option could be exercised by the taxpayer's nominee to acquire the shares for a stipulated consideration. The House of Lords supported the claim of the Commissioners of Inland Revenue for levy of surtax on the dividend income in the hands of the taxpayer on the ground that the shares were held by the college on a resulting trust for the taxpayer.

6. Sec. 451, ICTA 1970 : IRC v Bates (1968) 44 TC 225, in which the settlor's overdraft was repaid. But contrast Pott's Executors v IR (1951) 32 TC 211 where a company covered by a settlement cleared the settlor's debts to third parties who were not accountable to him.
7. Sec. 444(1).
8. Re. Clarkson-Webb 17 TC 451.
9. See 451, but *bona fide* loans are not hit : IR v Sansom (1921) 8 TC 20 (CA).
10. Corbett v IR (1938) 21 TC 449, 460, Dreyfus v IR (1963) 41 TC 441, *Cf.* Cornwell v Barry (1955) 36 TC 268 where the income of the beneficiary was liable to be diverted, though he had a vested interest in it.
11 Aikin v Macdonald's Trustees (1894) 3 TC 306. Income from foreign investment to the extent that it was utilised in the costs of administration of a foreign trust was not, however, taxed in Baker v Archer Shee (1927) AC 844 ; 11 TC 749 (HL).
12. Fry v Shiel's Trustees (1915) 6 TC 583. The contrary view has been taken in India : CIT v P. Krishna Warrier (1970) 75 ITR 154, 157 (SC) ; CIT v Uma Maheswari (1969) 71 ITR 614 (Pat). However, there are no special provisions governing earned income in the Income-tax Act in India at present.
13. Drummond v Collins (1915) 6 TC 525 (HL).
14. Williams v Singer (1920) 7 TC 387—Case of a beneficiary domiciled and resident in the US directly receiving income from investments in the US on the instructions of the trustees in the UK. Also see Reid's Trustees v IR (1929) 14 TC 512. It has been held that the source of a beneficiary's income would be securities and not the trust deed where the trustees held securities upon trust for the beneficiary's life : Archer-Shee v Baker (1927) 11 TC 749 (HL).
15. Jackson's Trustees v IR (1942) 25 TC 13 ; Brodie's Will Trustees v IR (1933) 17 TC 432 ; Cunard's Trustees v IR (1946) 27 TC 122 ; Williamson v Ough (1936) 20 TC 194 ; Milne's Executors v IR (1956) 37 TC 10 ; Lawson v Rolfe (1969) 46 TC 199. The position is not different in a discretionary trust : Lindus & Hartin v IR (1933) 17 TC 422 ; Peirse-Duncombe Trustee v IR (1940) 23 TC 199.
16. (1965) *Estate and Gift Taxation* : A *Comparative Study*, Sweet and Maxwell, London, p. 136. For use of trusts and settlements to avoid tax, see Chapman v Chapman (1954) 1 All ER 798 ; Re. Drew's Settlement (1966) 2 All ER 844 ; Re. Lloyd's Settlement (1967) 2 All ER 314 ; Clitheroe's Settlement Trusts (1959) 3 All ER 789 ; Re. Sainsbury's Settlement (1967) 1 All ER 878.
17. See the UK Green Paper on the Wealth Tax (CMND) 5704.
18. Discretionary trusts outside the UK are subjected to the surcharge of 15 per cent in respect of dividends on shares in the UK

companies : IR v Regent Trust Company Ltd. (1980) STC 140 ; (1979) TR 401.

19. For the meaning of interest in possession, see Pearson v IR (1980) 2 All ER 479.
20. Brodie's Will Trustees v IR (1933) 17 TC 432.
21. Stanley v IR (1944) 1 All ER 230 ; 26 TC 12 (CA) ; IR v Blackwell Minors' Trustees (1924) 2 KB 351 ; 10 TC 235 ; Hamilton Russel's Executors v IR (1943) 25 TC 200 (CA).
22. William J. Shultz (1926), *The Taxation of Inheritance*, Houghton Mifflin, pp. 223-24, quoted by Gerald R Jantscher, (1967), *Trusts and Estate Taxation*, Brookings Institution, p. 5.
23. IR v J Bibby & Sons Ltd., 29 TC 167 (HL), (1946) 14 ITR (Suppl) 7 ; Barclay's Bank Ltd. v IR (1960) 3 All ER 173, (1962) 45 ITR (Suppl.) 1 (HL) ; Shields (John) & Co. (Perth) Ltd., v IR, (1950) 29 TC 475.
24. Weir's Settlement Trust, Re. (1970) 1 All ER 297 ; (1970) ITR 53 (CA) ; Gartside v IR (1968) 1 All ER 121 ; (1968) 70 ITR 663 (HL) ; Sainsbury v IR (1970) 75 ITR 388 (CD) ; (1969) 3 All ER 919.
25. The Board of Inland Revenue Press release on 11.9.70 reproduced on pp. 283-84 of BTR 1970 ; Lovell, *Discretionary Trusts and Estate Duty—the Dutiable Slice* (1970) BTR 220 ; Goldberg, *The Curious Case of the Finance Act and Sub-trusts* (1971) BTR 117 ; C.W. Keeton and L.A. Sheridan, 1974, *The Law of Trusts*, Tenth Edition, Professional Books Ltd., London, p. 346.
26. See David B. Parker and Anthony R. Mellows, *The Modern Law of Trusts*, 4th ed., Sweet & Maxwell, p. 65. Bermuda, the Bahamas, the Caymen Islands, Gibraltar, Honkong, the Carlos Islands, Luxembourg, New Hebrides, Norfolk Island, Netherlands, Antilles, Panamas, and Switzerland are among the popular tax resorts. Nepal and Bhutan serve as tax shelters for India. The Middle East is also free of taxes.
27. Re. Weston's Settlements (1968) 3 All ER 338 involving arrangements in Jersey, where some of the beneficiaries acquired a domicile and took up permanent residence to avoid the capital gains tax and estate duty. The court declined to approve the arrangements for the minor children. "Trust exporting" continues, however, despite Weston's Settlements case, as pointed out in Underhill's *Law of Trusts and Trustees*, 13th ed., by David J. Hayton, p. 400. For cases in which arrangements for the transfer of assets to off-shore trusts were approved by the courts : Re. Windeatt's Will Trusts (1969) 2 All ER 324 ; Re. Seale's Marriage Settlement (1961) 3 All ER 136 ; Re. Whitehead's Will Trusts (1971) 2 All ER 1334.
28. Robin W. Boadway and Harry M. Kitchen : *Canadian Tax Policy*, p. 80 ; Canadian Tax Papers, No. 63, Canadian Tax Foundation, 1980.

29. It has been held that this power is of no avail where the children of the taxpayer are beneficiaries of separate trusts : *Reports of Proceedings of the Thirty-first and Thirty-third Tax Conference*, Canadian Tax Foundation.
30. *Report of the Royal Commission on Taxation*, Chairman : K.L. Carter, 1966.
31. Ibid. Vol. 4, pp. 195-96
32. Watkins v Commissioner of Probate Duties (Vic).
33. *Final Report*, Taxation Review Committee, January 31, 1975, Chairman : K.W. Asprey.
34. Some of the problems that arise when the settlor is also trustee and beneficiary for life and when the trust deed does not indicate the need for property accourting for the income and assets of the trust are evident from the case of Home for Destitute and Crippled Children v Boomer 308 Ill. App. 170, 31 NE (2d) 812 (1941). For brief details, vide Eleanor K. Taylor (1953) *Public Accountability of Foundations and Charitable Trusts*, Russel Sage Foundation, New York, p. 41.
35. Kluwer Deventer (1978), *International Tax Avoidance* : A study of the Rotterdam Institute of Fiscal Studies, Vol. B, Country Reports, Netherlands.
36. Ray M. Sommerfelt, Herschel Manderson and Horace R. Brook (1977), *An Introduction to Taxation*, Harcourt Brace Jovanovich, Ch. 9-8.
37. G.R. Jantscher : *Trusts and Estate Taxation*, p. 85, Washington : Brookings Institute (Studies of Government Finance).
38. B.W. Jones Trust v Commissioner 132 Fed (2d) 914 Maximor Trustees v United States 373 US 49 (1963) : Both the cases have been quoted at p. 229, Richard A. Green, *The Residence of Trusts for Income-tax Purposes*, Canadian Tax Journal, Vol. XXI, No. 3, May-June 1973. Canadian Tax Foundation, Toronto. The cases related to trusts with the bulk of their assets and also some of the trustees in the US though the settlors and beneficiaries belonged to the UK.
39. C.T. Sandford, J.R.M. Willie and D.J. Ironside (1975) *An Annual Wealth Tax*, Institute of Fiscal Studies.
40. H.W.T. Pepper, "Isle of Man : Viking Haven in a Celtic Sea", *Accountant*, November 9, 1978.