

# Biting the hand that feeds



While many other Western countries — even some with socialist governments — are reducing taxes on business to foster economic growth and create more jobs, the Margo Commission

has recommended two new taxes for this country, one of which will be a direct impost on business.

Simply put, it appears that the commission has taken the view that it should recommend what is likely to be politically acceptable rather than what would be economically most desirable.

Essentially it recommends a desirable shift in emphasis from direct taxes (that is,

The Margo Commission wants a desirable shift towards consumption taxes, but with the main burden falling on business. This doesn't augur well for economic growth.

income and company tax) to indirect taxes such as general sales tax (GST) which would mean that more taxpayers spend the more tax they will pay. They will therefore be encouraged to save rather than spend, leading to increased investment and more jobs.

The trouble is that proportionately indirect taxes fall more heavily on lower income earners. This is not necessarily to their ultimate disadvantage. For the stimulus that

proportionately less taxation gives to richer investors creates the greater benefit of faster overall economic growth.

But trade unions as well as the Indian and coloured houses of parliament are unlikely to see the advantage that easily. So the commission has decided instead to impose heavier indirect taxes on business and lift the burden on the lower income groups by recommending that GST be cut from 12% to its original 4%.

Accordingly, it has recommended a comprehensive business tax (CBT) which could erode much of the desirable economic shift in emphasis away from direct taxes to indirect ones. Business taxes, under any name, are paid for by people: workers are paid less wages and salaries; customers are charged more, and shareholders receive smaller divi-

## WHAT MARC

### DISTRIBUTION OF INCOME

- 1 Tax policy should aim at long-term growth. It should be neutral.
- 2 The time is not ripe for abandoning income as the base for direct taxation.
- 3 The cost of tax allowances and incentives (such as investment and export concessions) is now unknown. They should be removed from the tax system as they erode the tax base and be replaced by a system of direct grants.

### TAX OPTIONS

- 4 The cost of public goods and services (such as commuter transport) should be recovered from users, not from tax revenues or subsidies.
- 5 Personal marginal and corporate income tax rates should be held as low as possible.
- 6 The R500 interest exemption for individuals should be constantly inflation-adjusted.
- 7 Income should be defined to include all forms of remuneration.
- 8 No further relief should be granted for fringe benefits, except share incentive (not option) schemes. Fringe benefits should be taxed in full and the limits, bases of valuation, etc., regularly adjusted. Cars and car allowances should be taxed on a more realistic basis — that is, more heavily.
- 9 Industries affected by fringe benefits tax should be given relief outside the Income Tax Act.
- 10 Rebates for the aged should be increased.
- 11 War and disability pensions should continue.
- 12 Further relief for the aged through the Income Tax Act is not recommended.
- 13 Medical costs should be disallowable unless they exceed 5% of a taxpayer's income, except for persons over 65.
- 14 Physical disability benefit should remain.
- 15 Donations to charitable organisations should not be tax deductible.
- 16 There should be no relief for interest paid on home mortgages.
- 17 The basis of maintenance and alimony payments should remain.
- 18 Primary rebates should remain, but be equalised.
- 19 Child rebates should remain, but be limited to a certain number of children.
- 20 The dependant's rebate should be abolished.
- 21 Contributions to the UIF should not be tax-deductible but benefits from it should be tax-free.
- 22 There should be a move back to a simpler income tax with fewer, broader bands and lower marginal rates.

### THE UNIT

- 23 The individual, not the couple or family, should be the tax unit. Separate taxation of spouses should be compulsory and in respect of all income.
- 24 PAYE deductions cannot be accurately calculated if spouses' incomes are aggregated.
- 25 Fiscal policy should discourage neither marriage nor employment.
- 26 Community of property should be overridden for tax law.
- 27 Primary and child rebates — and only these rebates — should be fully transferable between spouses.

- 28 A low-income rebate of R600 should be introduced.
- 29 If a spouse is divorced, separates or becomes an unwed parent after introduction of the new system, the primary rebate will be reduced.
- 30 Separate taxation can be phased in over two years.

### THE COLLECTION OF INCOME TAX

- 31 More PAYE inspections are needed.
- 32 Payments to independent contractors should be subject to a withholding tax to ensure collection of PAYE and other taxes.
- 33 Inland Revenue should review internal administration, especially software management.
- 34 Concerted action is needed to educate taxpayers about tax. Inland Revenue should establish a public relations arm.
- 35 The Final Deduction System should be retained but can be improved in many ways, eg by a SITE (Standard Income Tax on Employees).
- 36 A withholding tax on investment income is not recommended.

### BUSINESS INCOME

- 37 Income is to be recognised when all events have occurred which fix the right to receive it. Expense recognition should be subject to the same test.
- 38 For the purposes of tax deductions, the limitation to income from trade should be dispensed with, and broadened to include all income.
- 39 Interest capitalised in deferred payments should be subject to tax.
- 40 Trading profit on credit sales must be separated from finance charges and taxed separately.
- 41 The draining of taxable income by excessive and fluctuating finance charges should be more tightly controlled.
- 42 Arbitrage should be recognised, but controlled regarding tax-free investments.
- 43 If inflation accelerates beyond present levels, inflation-adjustment should be considered. If it stays at current levels, substantial amendments must be made to the law.
- 44 Treatment of foreign exchange fluctuations should be codified.
- 45 Consumable stocks should be treated in the same way as trading stocks.
- 46 Costs to reduce expenditure should be tax-allowable.
- 47 Post-graduate studies should retain current benefits and receive further favourable attention.
- 48 Expenses such as auditing and security should be deductible.
- 49 An anomaly in the exchange of trading stocks of shares for mutual funds should be eliminated.
- 50 Work in progress to be brought within Section 22 of the Act.
- 51 The CIR should have a discretion under Section 11 (gA) concerning the cost of intellectual property rights (including trade marks).

### COMPANY TAXATION

- 52 Tax on dividends in the hands of residents should be abolished.
- 53 Consideration should be given to taxing most foreign dividends accruing to resident shareholders.
- 54 The time is not ripe for Group Taxation.
- 55 Change of ownership in specie of a trading

asset by a company in liquidation should not result in a change in cost of the asset.

- 56 An (unexplained) minimum tax, designed to combat deferral but not to increase revenue, should be considered for corporate bodies.

### CLOSE CORPORATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

- 57 Non-resident shareholders' tax (NRST) should be retained on dividends paid by Close Corporations (CCs). CCs should be taxed at the maximum marginal rate for individuals.
- 58 The development of CC law should be accompanied by appropriate changes to tax law regarding the CC and its members. If stamp duty remains, it should apply to CCs at the same rate as a transfer of shares.
- 59 The annuity principle (annual accounting of incomes or losses) should be applied to partnerships. Losses apportioned to a limited partner should be limited to the losses actually borne by him.
- 60 Where trust income does not accrue to a beneficiary at the end of any tax year, it should be taxed in the hands of the trustee at the maximum marginal rate.
- 61 The business trust should be treated as a company, and its beneficiaries in the same way as the shareholders of a company.
- 62 Rules should be developed to remove uncertainty as to when the heirs of an estate are ascertained.
- 63 Deductions which were available to the deceased should be made available to the executor of an estate.

### CAPITAL VERSUS INCOME AND CAPITAL GAINS

- 64 A comprehensive statutory definition of capital and income should not be attempted. Objective criteria should be substituted for subjective criteria in distinguishing between capital and income. Capital gains should not be taxed.

### INSURERS

- 65 The present, pragmatic method of taxing long-term insurers should be retained, with certain improvements.
- 66 A long-term insurer's income should be defined as interest, rent and dividends. Allowable expenses should be the expenditure actually incurred on administration and investment and management expenses for fixed property owned directly. Sales expenses and benefits should not be included. This substitution of actual expenses for the present expense allowance of 60% of investment income should make it possible to abolish the Sixth Schedule to the Income Tax Act.
- 67 Long-term insurers should continue to be taxed at the rate applicable to companies.
- 68 It does not appear necessary to provide for separate determination of taxable income attributable to shareholders.
- 69 The rebate for insurance premiums should be abolished.
- 70 The aspect of small, growing long-term insurers should be further investigated with a view to enhancing their ability to compete.
- 71 Short-term insurers' income should not be finally assessed for tax until three years later.
- 72 Investment gains should continue to be taxable or otherwise according to the principles

applicable to other companies.

### FINANCIAL INTERMEDIARIES

- 73 The exemption from UPT, enjoyed by banks, should not be extended to banking groups if that tax is to remain.
- 74 Selective levies should not be imposed on financial intermediaries.
- 75 The tax-free and partially tax-free status of dividends paid by building societies on various shares and of interest paid on savings accounts relating to the governments home-ownership scheme should be withdrawn. Tax-free instruments offered by Treasury and Post Office should also be withdrawn.
- 76 Tax-free benefits available to holders of instruments in societies changing to stock companies should remain, subject to time limits.
- 77 Home ownership should be encouraged by upgrading the State-aided home-ownership scheme.

### PENSION, PROVIDENT, RA AND BENEFIT FUNDS

- 78 Requirements for registration of pension funds should be clearly stated in regulations published jointly by the CIR and Registrar of Pension Funds.
- 79 Relief for contributions to provident funds should be extended to benefit funds when the benefit is taxed.
- 80 Annuity and pension benefits should continue to be taxed as at present. But benefits on early withdrawal should be taxed.
- 81 Retirement gratuities should be treated as if they were lump sums from pension, provident or RA funds.
- 82 Differences between contributions and benefits from private- and public-sector funds should be abolished, subject to certain protection for public fund members.
- 83 The cash-flow principle should be retained for the taxation of benefits from pension, provident and RA funds.
- 84 The CIR should monitor RA funds to counter tax abuse.
- 85 Benefits paid to members of medical aid schemes should not be taxed.

### INCENTIVES

- 86 Incentives should only be granted after thorough and exhaustive investigation.
- 87 The exporting marketing allowance should be replaced by a scheme consistent with the requirements of GATT.
- 88 Training allowances should be replaced by a cash grant system.
- 89 Research and development costs of a revenue nature should be allowed as a deduction.
- 90 Donations concessions should be retained but not extended, save for primary schools.
- 91 Allowances for housing should be restricted to primary industry.
- 92 Sponsorship allowances are not recommended.
- 93 The cash cost of all allowances should be monitored and published quarterly.
- 94 Security costs for national key points should be met by compensation, not tax deductions.
- 95 Depreciation of assets, for example, plant and aircraft, should generally be over three years, 50%-30%-20%; otherwise 10% a year for ten years — say, for hotels.

dends.

The commission no doubt argues that if government accepts its proposals and reduces income and company taxes while imposing the CBT and other taxes, the shift will have been achieved. But there is nothing in its proposed changes in the tax system that makes this either inevitable or even probable.

The danger is that it is recommending to government a taxation mechanism which will hand a free spending administration a more convenient means of increasing the taxation burden on the country's productive resources, that is, business. Taxation is one of the most important measures of obtaining a particular economic growth goal. The commission is quite right in maintaining that the goal needs to be set by parliament. But it cannot escape the fact that the nature of its tax proposals do suggest a basic philosophical attitude.

The path the commission has chosen delivers to government a resounding message: tax in such a way that you avoid the maxi-



misation of economic growth. Is that really what we should be doing in this country — travelling in a fiscal direction eschewed by our main trading partners?

In any event, the commission's official brief specifically states that it must have "regard for the special economic development needs of SA."

Commission chairman Judge Cecil Margo is a sensible and learned lawyer. But clearly, as Rab Butler believed politics was the art of the possible, so he must believe that taxes, to be effective, need popular acclaim rather than economic advancement. That is not our view nor, we suggest, would it find much support abroad.

What is disappointing about the commission is its lack of courage and originality in the most central issue of taxation in this country. There is much to be acclaimed in what it has recommended in many of its 270 recommendations. But it lacks coherence between the philosophy of tax and the execution of tax collection.

Its compact report of 516 pages is a distillation of "thousands" of pages of evidence, research and other information. Its 29 chapters contain much that will sweep many anomalies and inequities from the SA tax system. For instance, it is against joint taxation of married people; it suggests a broader base for claiming deductible expenses; its recommendations on trusts suggests tax avoidance will be reduced; and, it is encouraging on the questions of depreciation, the timing of income accrual and inventories, and on the rationalisation of regional service levies.

The second new tax it recommends is a capital transfer tax (CTT) which amounts to

## RECOMMENDS — IN A NUTSHELL

### TAX-EXEMPT BODIES

- 96 Ecclesiastical should be amended to religious bodies.
- 97 Trading activities of charitable, religious and educational bodies should remain tax-free. Bodies not having share capital provided by private-sector investors should not be subject to tax; and vice versa. The status quo of other tax-free trading bodies should be retained.
- 98 Exemptions from tax generally should be granted in only the most exceptional circumstances and contained in the relevant fiscal statute.
- 99 Institutions exempt from income tax should also be free of transfer duty and CTT; exemption from GST and CBT will require further consideration.
- 100 Questions as to the nature of an institution's activities should be decided by the Minister, not CIR.

### CAPITAL AND WEALTH CREATION

- 101 Capital should be retained as a basis for taxation.
- 102 A capital transfer tax (CTT) should replace estate duty and donations tax.
- 103 In principle, CTT should be imposed for capital transfers for no consideration at a flat 15% rate. Where disposition is for an inadequate consideration, the tax should be levied on the difference between full and actual consideration. Various methods of transfer for inadequate consideration should be made subject to tax.
- 104 Certain deductions will be allowable for calculating CTT.
- 105 The exemption between spouses should be retained. Exemptions to religious, charitable and educational institutions should be retained.
- 106 Generation-skipping devices should be subject to tax after expiry of a certain time, say 15 years.
- 107 In the case of a disposition inter vivos, the primary liability for tax should rest on the donor.
- 108 As to capital transfers on death, the liability should fall on the estate.
- 109 No special treatment should be given in respect of farming property.
- 110 No special relief should be given where spouses mass their estates.
- 111 The existing deduction of items lent to the State should remain but the qualifying time be reduced from 50 to 30 years.
- 112 The deduction for usufructuary and annuity rights should be terminated.

### BROAD-BASED INDIRECT TAXES

- 113 A broad-based sales tax should remain an important element of the tax structure.
- 114 GST should be reduced to 4% after an initial cut-back to 7.5%. Relief on foodstuffs should be repealed if GST is cut to 7.5%. Capital goods should be excluded from the GST base.
- 115 The relationship between exports and GST should be studied further.
- 116 The definition of taxable services should be

extended as widely as possible. Intermediate goods and services should be excluded.

- 117 If GST is not reduced to 7.5% or less, it should be abolished and replaced by an invoice VAT system.
- 118 The list of ad valorem duties should be re-evaluated and abolished as far as possible.
- 119 The GST exemption for small traders should be increased to a turnover of R100 000 a year, and regularly upgraded for inflation.
- 120 Vendors should be obliged to convert to the inclusive system of invoicing.

### THE COMPREHENSIVE BUSINESS TAX (CBT)

- 121 With a view to lowering rates of tax throughout the structure and effecting the other reforms, consideration should be given to a CBT on value added by business activity, on an origin basis, and calculated by the additive method.

### THE SA CUSTOMS UNION

- 122 SA should negotiate with the BLS countries a restructuring of the SACU agreement. A more comprehensive agreement with the TBVC countries should be investigated.

### LOCAL TAXES, REGIONAL LEVIES AND DIFFERENTIAL LAND TAX

- 123 The current two RSC levies should be replaced by a single regional tax, on the same basis as CBT, and collected by Inland Revenue. Even if CBT is not introduced as a national tax it should be instituted as a replacement for RSC levies.
- 124 Introduction of the differential land tax is not recommended.

### SELECTIVE INDIRECT TAXES

- 125 Excise duties should be adjusted for inflation.
- 126 Natural wine and sorgung beer should again be taxed but at a modest rate. Malt beer should be taxed.
- 127 There should be a uniform duty on all fuel applications, collected by the Department of Customs and Excise.
- 128 The list of ad valorem duties should be re-evaluated and abolished as far as possible.
- 129 Differentiation of vehicle licenses, depending on weight, should be re-evaluated to recover the increased cost of road maintenance for heavy vehicles.
- 130 The principle of user charging for airports is supported.
- 131 Marketable securities tax (MST) and stamp duties should be abolished. If stamp duties are retained transactions via the capitalisation route should be brought within the net. Effective anti-avoidance provisions should be inserted in the Stamp Duties Act. Penalties for late stamping of documents should be substantially increased. Stamps on a sale or lease document should only be capable of being cancelled by the purchaser, lessee or Receiver of Revenue. All impositions of stamp duty should be contained in the Stamp Duties Act.
- 132 Exemptions from stamp duties should parallel the Transfer Duty Act. Commencement of the six-month period for stamp duties is defined.

The stamp duty exemption for issuing new shares to redeem pref shares should be abolished.

- 133 Transfer duty exemptions should be regularly reviewed.

- 134 The transactions tax on bank accounts should be abolished. If it is retained, the Post Office should be brought within the net.

### INTERNATIONAL ASPECTS OF TAXATION

- 135 Existing incentives to immigrants with capital resources should be retained.
- 136 The source basis of taxation should be retained.
- 137 Unilateral relief for double taxation should be adopted.
- 138 Anti-avoidance schemes should be adopted to counter income splitting and tax avoidance schemes for income arising in surrounding states.
- 139 Non-resident shareholders' tax (NRST) should be retained.
- 140 A branch profits tax should be levied at the NRST rate on branch profits remitted out of SA.
- 141 Non-residents' tax on interest (NRTI) should be retained but reviewed.
- 142 Double taxation agreements where the balance is against SA should be renegotiated or terminated.
- 143 Where tax treaties are negotiated adequate provision should be made to tax film rentals.
- 144 The best skills, including those from the private sector, should be used when negotiating tax treaties.
- 145 Government should be empowered to grant unilateral relief for international transport operations, provided reciprocal relief is provided.
- 146 Immediate action should be taken against transfer pricing.
- 147 The question of tax harmonisation with SA's neighbours should be taken up as a matter of urgency.

### TAX AVOIDANCE, EVASION AND COUNTER-MEASURES

- 148 The test of abnormality in section 103 should be qualified so that commercial acceptance of an avoidance practice does not defeat the operation of that section. Interest should be charged with retroactive effect when a taxpayer has been successfully challenged under section 103. General anti-avoidance provisions should be inserted in all fiscal legislation. The Minister should be empowered to counteract large avoidance schemes when Parliament is not sitting. Retroactive law would follow a clarifying announcement.
- 149 The names of defaulting taxpayers should be published.
- 150 The effectiveness of Inland Revenue would be enhanced by an inflow of relevant information from financial institutions, other State departments and the courts.
- 151 An at-risk rule should be introduced into the

Income Tax Act — that is, there should be no allowance unless there is a risk.

### AGRICULTURE

- 152 Losses on livestock should be set off only against farming income.
- 153 Farming development and improvement expenditure should be written off over three years: 50%; 30%; 20%.
- 154 The definition of a farmer should be objective. Non-derivation of farming income after a period will limit the deduction of farming losses to farming income only.
- 155 Various recommendations concerning estates, recoupment provisions, capital expenditure regarding immovables, spreading of exceptional income, livestock reduction and expropriated land, income equalisation deposit scheme.

### MINING

- 156 The same system of writing off capital equipment should apply as in industry; namely 50%; 30%; 20% over three years.
- 157 No extension of capital allowances for tax purposes should be permitted.
- 158 Replacing the formula method of taxing gold mines with a flat rate tax on profits should be investigated.
- 159 For ultra-deep level mines, direct grants rather than capital allowances should be investigated.
- 160 Further changes, such as integration of lease and tax payments in the case of base minerals; tax losses of mines that fail may be transferable; abolition of surcharge of mines not mining gold or diamonds, and abolition of the "baby formula" for small gold mines.

### ADMINISTRATION

- 161 Individual taxpayers should be furnished with calculation of their taxable income on assessment.
- 162 Adjustments by Inland Revenue to tax return data should be documented for the taxpayer in a reconciliation statement.
- 163 A taxpayer's notice of objection may be amended if good cause is shown before an appeal is heard.
- 164 A second special court should be constituted to hear appeals from the CIR as a filter to the Income Tax Special Court.
- 165 The CIR's discretionary powers should be subject to objection and appeal.
- 166 The CIR should publish a manual of regulations setting out his interpretation of various sections of the Income Tax Act.
- 167 Taxpayers should be entitled to obtain binding rulings from the CIR subject to certain administrative procedures and manpower constraints.
- 168 Special regional courts should be set up for tax cases.
- 169 Black personnel must be recruited.
- 170 Further recommendations, such as tax returns for companies in liquidation; delays in refunding taxes; penalties for fraud and negligence; interest on under- and over-payments of tax; and so on.

### KEY TO TABLE:

ICA = Income Tax Act. CBT = Comprehensive Business Tax. CTT = Capital Transfer Tax. UPT = Undistributed Profits Tax. FDS = Final Deduction System. NRST = Non Residents Shareholders Tax. NRTI = Non Residents Tax On Interest. MST = Marketable Securities Tax. CC = Close Corporation. GST = General Sales Tax. VAT = Value Added Tax. CIR = Commissioner For Inland Revenue. PAYE = Pay As You Earn.

a merger of donations tax and estate duty at 15%, against the present top estate duty (without allowances) of 35%. At first view this appears to be a modest advance.

The disappointing thing about the commission's report is in fact a lack of core reform. For instance, it says: "A comprehensive statutory definition of capital and income should not be attempted." The capital-income concept is the foundation of the South African tax system. Income is taxed in full while capital is zero-rated.

Neither income nor capital are defined in the Income Tax Act, and about 90% of tax case law is concerned with transactions trying, for various reasons, to be one or the other. The fuzzy line between capital and income is one of the main reasons for, among other things, the low level of share turnover on the JSE.

The most Margo is prepared to do is recommend that objective criteria should be substituted for subjective criteria in distin-



guishing between capital and income. This cautious attitude is reflected in many other parts of the report dealing with fundamental areas of our tax law. Its attempts to deal with the pernicious drag of inflation on incomes are not convincing. The best it can come up with is indexation.

The core of the recommendations is the CBT. The chapter dealing with it is one of the shortest, lacks a single footnote, and refers off-handedly to the "Single Business Tax" in Michigan, US. It seems that the commission, in searching for a new tax to plug the hole left by the taxes it wants to reduce, turned in desperation to the CBT, which has frail precedents.

Margo's other new tax is capital transfer tax (CTT) — to replace estate duty and donations tax. Tax on dividend receipts by residents would also be abolished. While, as the report says, the loss in revenue would be but small, the cut in the GST rate to below

7,5% would entail a loss running into billions of rands. In steps the CBT, keeping in line with the commission's theme of broad-based taxes with low rates. In another part of the report, the base of the CBT (for 1985) is presented as R67 billion.

While time will be needed to understand the nature of the CBT, Margo defines it in its most simple sense as "sales less purchases," where both sales and purchases refer to goods and services. The FM understands this to be nothing less than a modification of the cash-flow tax of the pure Universal Expenditure Tax (UET) type recommended by the UK's Meade Committee. While Meade is referred to in other parts of the report, it is ignored in the chapter on CBT. And, in other parts of the report, the pure UET, along with the differential land tax (both imply fundamental reform), are rejected out of hand.

Anyhow, Margo is evidently determined to be accepted. Tax commissions are notorious for doing great things and getting thrown out by governments. While Margo will prove to be a disappointment for economists and proponents of the pure UET, it will probably find wide-based support in SA's current political atmosphere.

Margo presents CBT thus: "Taxes on business are more readily shifted (forward onto consumers and backwards onto the suppliers of capital and other factors of production) than most other forms of taxation." The FM finds this attitude disingenuous.

We have the impression that the commission wants to move the perception of who pays tax from the individual taxpayer to the business community.

For example, while the merits of GST as a tax are accepted — provided the rate is low — it comes under heavy fire in the report. "The high visibility of the tax creates hostility;" "Perceptions of GST are not good, and VAT would serve to counter some of the problems in this area;" and "GST at 12% has become an unpopular tax, and there is evidence of extensive evasion of a type that cannot easily be counteracted."

The guts of Margo, for those short of time, is contained in Chapter 29. The "main" reform package relies almost entirely on CBT, which by the commission's calculations would have raised R1 billion for each percentage point in 1986-1987. Elsewhere it is suggested that CBT at 14% can replace

GST in its entirety at 12%. Chapter 29 suggests that CBT be introduced at 3% while GST, personal and corporate rates are cut. GST would be known as a retail sales tax. Other components in the "main" package would include a wider GST-base; fewer bands in the personal income tax table; separate tax for individuals; a fuller fringe benefits net; tax-free dividends, and assimilation into the system of new notions of depreciation, inflation and neutrality; use of the CBT to replace the two despised RSO levies; and urgent changes within the SA Customs Union.

The "alternative" package notes that if CBT be rejected, the options for reform will be limited to the extent that existing bases can be widened and collections improved. Separate taxation would have to be postponed. CBT could be used as a regional rather than national tax. Sales tax reform would still have to take place, though immediate introduction of an invoice-VAT would require a rate of 17% if food and capital goods are left out of the net.

Phasing-in and -out new and old taxes is an area not convincingly dealt with. The commission does not explore the vital area of taxes on taxes; this can be seen as in line with its desire to throw the perception of who pays tax onto business. The abolition of marketable securities tax, and no CGT could give the commission a mistaken image that it panders to the rich.

There are continual suggestions that the buck in important areas be passed. An example is its recommendations on gold mining taxes. In conclusion, Margo says that: "No tax reform commission can ever provide final answers." Well, this commission certainly hasn't even attempted to do so.

In the final analysis, the real problem with tax in this country is that it is too high as a percentage of GDP. Unless it is cut there is no incentive to create jobs. No amount of streamlining the tax system will substitute for lower taxes.

The manner of the release of the commission's recommendations has not given time for ample study or reflection. Considering the new taxes it recommends and their complexity, the risk now is that they will make business confidence even more fragile and thus further inhibit new fixed capital investment.

## LEGAL PROFESSION

# Togetherness at the bar

Rising costs are making urgent a reconsideration of the structure of SA's divided legal fraternity. In the past few months alone the Association of Law Societies of SA, now adopting a much higher profile than in the past, has been consistently calling for a fusion of the bar and the side bar — or at the very least for the right of attorneys to appear in the Supreme Court.

Various methods of containing legal costs without adversely affecting lawyers' income and standards are coming into the spotlight. One major suggestion is that the distinction between advocates and attorneys has become unnecessary.

The division of the legal profession in SA between attorneys and advocates is a reflection of the English model — a practice adopted for reasons now firmly historical. America and certain other parts of the English-speaking world operate a fused legal system.

This year's president of the association "Billy" Schalk van der Merwe, has been

