

NOTES RE ADMINISTRATION OF INCOME TAX

On the assumption that -

- (a) the future Jewish Government will regard itself within its territory as the successor of the Mandatory Government, thereby taking over all rights and obligations of its predecessor in relation to assessments under its jurisdiction;
- (b) in the first instance the present law relating to income tax and company profits tax, with certain adaptations, will remain in force;
- (c) the income tax administration will cease to operate as a separate department and become part of the office of the Minister of Finance;
- (d) With a view to facilitating as far as possible the uninterrupted functioning of the income tax administration, existing Income Tax Offices in any part of the Jewish territory will be allowed to continue without major changes.

The following points regarding organisation and legal framework present themselves:

A. Organisation:

(1) Head Office.

At present the Commissioner of Income Tax is the statutory authority charged with the administration of the law relating to Income Tax and Company Profits Tax. His functions are partly administrative and partly judicial. A proper authority would have to be created to replace the present post of Commissioner of Income Tax.

If the administration of income tax as well as that of other forms of Government revenue is to become part of the office of the Minister of Finance, it suggests itself that the officer responsible for the collection of all forms of Government Revenue - the Director of Inland Revenue - be the appointed authority charged with the care and management of the income tax administration. Under him, as many Assistant Directors would serve as there are separately administered forms of revenue. The Assistant Director of Inland Revenue Department of Income Tax would then take charge of the technical management of Income tax. Legal effects to such an arrangement could easily be given within the framework of the present Income Tax Ordinance by simply substituting for the definition of "Commissioner" in section 2 the following: "the Commissioner means the Director of Inland Revenue of the Assistant Director of Inland Revenue Department of Income Tax."

This set up - if applied to other revenue departments, would have the advantage of enabling the closest cooperation of all technical managers of Inland Revenue under the chairmanship of the Director and thus the same result would be achieved as in the United Kingdom by the institution of the Commissioner of Inland Revenue.

The office of the Assistant Director Department of Income Tax could in the first instance be quite small. The initial requirements would be:

- 1 technical officer (an inspector possibly in grade I or II),
 - 1 typist secretary
 - 1 clerk
 - 1 filing clerk and
- a telephonist (if a separate one is needed).

(A suitable technical officer may be found among the present staff of the Assessing Officer Jerusalem). This small establishment would however render it necessary that all purely administrative matters such as the preparation of paysheets, keeping of personnel records, etc. are attended to by the Director's secretarial officers. Should future development require it, the office can be expanded.

Draft estimates of expenditure and revenue of the Income Tax Department would be prepared by the Assistant Director as required by the Director.

The main duties of the Assistant Director would consist of:-

- (i) Supervision and general direction of assessments, proposed amendments of the law, exercise of all statutory powers of the Commissioner under the provisions of the Ordinance (double income tax relief, approval of provident funds, surtax on companies, etc.)

The possibility of a proper taking over of files, records, etc. from the present Head Office will reveal itself in the near future. If no orderly handing over can be arranged no great harm would be done as lists of all important items can be prepared and subsequently reconstructed.

The appointment of Legal Advisers to the department will have to be considered. In the past Messrs. Horowitz and Co. were retained by the Attorney General to act as the department's legal advisers. This arrangement has worked very satisfactorily and if there is no objection by the Minister or Director in principle, it could be continued. The work of Horowitz consisted, with the exception of occasional opinions given, of representing the Department in appeals before the Supreme Court. Income tax law is a difficult and highly specialised subject. Sums involved are frequently large and decisions and Court judgments may be of the utmost importance, they quite often necessitate amendment of the law. It therefore remains desirable that tax cases should be heard before a special Tax Court as hitherto before a single judge of the Supreme Court in the first instance and before two or three judges of that Court as Appeal Court. The number of cases could be largely reduced by an appropriate change of the objection-appeal machinery provided for in the present Ordinance. So far questions of fact and of law could be taken to the Courts. This can be changed to the effect that questions of fact should finally be decided by some other appellate body and only questions of law be allowed to go to the Courts. An appellate body will have to be formed consisting of suitable laymen under the chairmanship of a law officer. The laymen could be selected from a panel to be appointed by the Minister. They would serve in an honorary capacity. All this would require extensive amendment of the Ordinance and it is therefore suggested to leave the matter at present and to take it up in future on the occasion of the consideration of other amendments of the law.

The Director of Inland Revenue will regularly receive written reports on all important aspects of the department's work, both administrative and technical and otherwise such reports as may be required by him. His decision will have to be obtained on all questions other than of a purely technical nature relating to the administration of the law.

(2) Tax Offices.

These offices, presumably Tel Aviv and Haifa, would in the first instance be allowed to continue. The Tel Aviv office could function straight away, but the Haifa Office might experience difficulties ~~we~~ owing to its mixed Jewish-Arab personnel, however if necessary the senior Jewish officer working there will be in a position to run the office with his Jewish staff and if required, reinforcements could be sent to him from Tel Aviv or Jerusalem where suitable Jewish officers are available from the staff of the present Assessing Officer. (The latter's case if he cares to serve with the Jewish Government will have to be considered. He knows Arabic and is well suited to deal with Arabs among whom he was quite popular when working in Jerusalem).

It is suggested that at the outset the Minister might address the public on questions of economy of household administration, tax morale and honesty and the Director of Inland Revenue might make a similar address to all Revenue Offices asking for whose-hearted cooperation, integrity, politeness to the public etc.

The first action of the Income Tax Office would be the sending out of return forms for 1948/49. There are stocks of all forms, registers, etc. available at the present Head Office. It is doubtful however whether it will be possible to send them to the Tax Offices; if not, forms will have to be printed. In determining quantities the first year only should be taken into account as amended forms may have to be introduced for the second year. (The Assessing Officer in Tel Aviv and Mr. Kahn in Haifa will be in a position to state their requirements at an early date so that arrangements for printing can be made in good time).

Appropriate instructions regarding persons to be served will be given by the Head Office. It has to be borne in mind that all persons residing within Jewish territory and all persons living outside but with income accruing to them which is derived from that territory, will have to be served. This includes many persons previously not assessed in Tel AVIV or Haifa and excludes others whose assessments were previously made there. (e.g. employees residing in Tel AVIV or Haifa where the employers have their main place of business in Jerusalem, branches in Jewish territory of companies and firms whose main place of business is situated outside Jewish territory. In this connection it could be suggested to such companies as the Palestine Corporation, Japhet, Migdal, etc. to transfer their headquarters to Tel Aviv.

A decision will have to be taken on the question of whether officers serving with the Jewish Government should be assessed centrally or at the district of their place of work.

A minor point concerning the assessment of persons residing in Palestine outside the Jewish territory but taxable on income earned within that territory, will have to be considered in the light of any new legislation regularising the treatment of such persons. If no agreement will be sought or reached with other Governments within the boundaries of Palestine, these persons will have to be treated like any other non-residents and it may then be advisable to appoint an assessing officer in charge of non-residents. This could be one of the ordinary assessing officers and in such case co-ordination between the two Tax offices will have to be ensured.

When sending out forms, assessing officers will simultaneously inform employers that deductions from salaries have to be resumed and the amounts remitted to the Assessing Officer. The Head Office will issue standing instructions to Assessing Officers relating to:-

- (a) Co-operation with Head Office,
- (b) Depositing of money,
- (c) Personnel
- (d) Dealings with the public, and
- (e) Assessment in general.

(a) Cooperation with the Head Office to be as before, that is to say all cases of doubt or difficulty to be sent up for specific rulings; appeals, double taxation relief claims, approval of charities and provident funds to be worked at Head Office, monthly returns of assessments and collections on the lines followed hitherto (subsequently on possibly modified lines) to be submitted not later than the 15th of each month; special authority of Head Office to be sought in all cases of refund claims in respect of tax collected by the previous Government, etc.

(b) Cash and cheques to be deposited daily with . . . (in accordance with general financial regulations which will presumably be prepared by the competent Minister).

(c) Guidance on questions relating to personnel will probably be given by the competent authority (Civil Service Commissioner).

(d) Assessing Officers will be requested to take care that interviews should be called for sparingly, that appointments are kept punctually, that the public in general be treated in a manner becoming to the dignity of the office.

(e) On the question of assessments appropriate instructions will be issued. It may here be recalled that in all cases where best judgment assessments have to be made the powers of Assessing Officers are practically very wide. They may be used generously or harshly. In the last resort instructions on this point are a matter of policy and not of law. Guidance will be sought from the Director.

In the first year assessments should not begin before the 1st July (except in special cases of assessees leaving the country etc.) In the intervening period Assessing Officers will be asked to arrange for an exhaustive stocktaking in their offices. This will include the preparation of :-

- (a) A list of all officers with particulars of status, salary, duties, etc.
- (b) A list of all assessees on the register as on 31.3.48 who, on 16.5.48 are either still to be assessed for any previous year or whose assessments are not yet settled owing to objection or appeal (or from whom payments are outstanding).
- (c) An inventory of all furniture, fixtures, forms, registers, etc.
- (d) A list of all employers who have ceased during 1947/48 to make or to remit deductions from the salaries of their employees, with details of amounts in arrears.

Assessing Officers will then be advised to collect with all possible speed all arrears and to settle all objections in accordance with specific instructions in every case of any magnitude. Appeals to the Courts will in the first instance be considered by the Head Office and the possibilities of settlement out of Court will be explored. Only where important legal issues are involved will Court rulings be sought.

This "stocktaking" will provide an opportunity of reviewing the over-all position of the Offices. Results will be studied with a view to making such changes as are found necessary for the purpose of reaching the highest possible degree of economy and efficiency in the Department. Proposals on the various questions will then be submitted to the Director for consideration and decision.

B. Legal Framework.

In order to provide authority for the continued functioning of the Tax Offices it will be necessary to pass an enactment regarding the remaining in force of the Company Profits Tax Ordinance and the Income Tax Ordinance 1947 and of all rules, notices and declarations made under its provisions subject, however, to a number of adaptations resulting from the transfer of authority to the Jewish State. The Law Officers of the Jewish Government will probably have made or in due course make appropriate suggestions but if so desired, a schedule of amendments of a purely formal nature which appear to be necessary can be submitted. (Example. Substitution for the words "the High Commissioner in Council" wherever they occur in the Ordinance, of the words "the Jewish Government" or the words "the Minister of Finance" as the case may be; deletion of certain sections such as 8(h), 17, 58 of the Income Tax Ordinance 1947, adaptation of others such as section 4(3), 9(a), 60, 64(b). Similar modifications will have to be made in certain rules, declarations, and notices.

The question of Double Taxation Conventions with other Governments in the territory of Palestine will require special consideration in the light of the relations existing between the States in question. It is thought that these questions may be dealt with at a later stage. If desired, a draft agreement on the lines of that at present in force with the United Kingdom could be prepared.

Sgd. Dr. ?
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