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I

DE L'APPLICATION „RATIONE PERSONOE" DES CONVENTIONS DE DOUBLE-IMPOSITION

par

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Les conventions bilatérales conclues entre la France et certains pays étrangers en vue d'éviter les doubles impositions — et que, selon la terminologie usuelle abrégée, mais à l'évidence erronée, nous appellerons dans la suite de cette étude „conventions de double imposition", — stipulent en général d'une manière très précise leur champ d'application territorial.

C'est ainsi que:

— l'art. 16 de la convention franco belge signée à Bruxelles le 16 mai 1931 précise qu'elle ne s'applique „qu'au territoire métropolitain des hautes parties contractantes";
— les conventions franco-canadiennes du 16 mars 1951 ne visent en vertu des art. 2 et 21 que les impôts établis sur le territoire de „la France métropolitaine, à l'exclusion de l'Algérie, des départements d'outre mer et des autres territoires dépendant de l'Union française".
— la convention franco-U.S.A. signée à Paris le 18 Octobre 1946 s'applique, en ce qui concerne les Etats-Unis: seulement aux „Etats" eux-mêmes, aux territoires de l'Alaska et d'Hawaï et au district de Colombia; en ce qui concerne la France, à la France métropolitaine à l'exclusion de l'Algérie et des Colonies;
— l'art. 2 de la convention franco-britannique du 14 décembre 1950 précise que „le terme „Royaume Uni" désigne la Grande Bretagne et l'Irlande du Nord, à l'exclusion des îles de la Manche et de l'île de Man; et le terme „France" désigne la France métro-

politaine et exclut l'Algérie, les départements d'Outre-mer et les autres territoires de l'Union Française".

Pour la convention franco-suédoise, voir l'art. 24; pour la convention franco-suisse relative aux impôts sur les revenus, voir l'art. 1-3 et l'art. 13 du protocole final et pour celle relative aux droits de succession l'art. 1-5 et l'art. 5 ainsi que le protocole final.

Si le domaine d'application des conventions de double imposition se trouve ainsi nettement précisé „ratione loci", il en est autrement de la détermination de leur applicabilité „ratione personoe".

Seule, à notre connaissance, la convention intervenue entre la France et la Belgique, signée à Bruxelles le 16 mai 1931 et applicable depuis le 1er juillet 1933 stipule que les personnes en bénéficiant sont „les contribuables qui ont leur domicile fiscal „dans l'un des deux Etats contractants et dont „certains revenus proviennent, en tout ou partie, de l'autre „Etat".

La Convention franco-italienne signée à Rome le 16 juin 1930 et applicable depuis le 1er janvier 1934 vise la question d'une manière moins nette en précisant seulement que „la présente convention tend à éviter aux contribuables des Etats contractants la double imposition en matière d'impôts directs, réels ou personnels et la convention franco-suisse du 31 décembre 1953 exprime, en termes analogues que „la présente convention a pour but de protéger les contribuables des deux Etats contre les doubles impositions . . ."

Vis à vis des Pays Bas, l'on peut noter que si la convention générale du 30 décembre 1949 applicable depuis le 1er janvier 1951 est muette sur la définition, des personnes susceptibles d'en bénéficier, par contre la convention spéciale de la même date relative à l'impôt de solidarité français et aux impôts extraordinaires sur la fortune néerlandais énonce en son préambule qu'elle répond au „désir d'éviter, dans la mesure du possible, que les biens appartenant aux personnes physiques ou morales domiciliées ou établies dans l'un des deux Etats et dont l'assiette matérielle ou juridique se trouve dans l'autre Etat ne soient soumis à la fois à l'impôt de solidarité national français et aux impôts extraordinaires sur la fortune néerlandais".

Aucune des autres conventions conclues par la France:

avec l'Autriche-Allemagne: le 9 novembre 1934,

— avec le Canada, le 16 mars 1951,
— avec les Etats Unis d'Amérique; le 25 juillet 1939 et le 18 octobre 1946,
— avec la Grande Bretagne: le 14 décembre 1950,
— avec la Norvège: le 22 septembre 1953,
— avec la Suède: le 24 décembre 1936 avec ses avenants des 5 mai 1939, 8 avril 1949 et 28 octobre 1950.

ne renferment de précïsions en la matière.

La question se pose donc de déterminer à quelles personnes, physiques ou morales, sont applicables les conventions de double imposition passées par la France et, plus précisement, de savoir en particulier, d'une part si tous les Français peuvent en revendiquer le bénéfice, d'autre part si un étranger peut se prévaloir des dispositions d'une convention intervenue entre la France et un pays autre autre que le sien.

En l'absence de précisions explicites dans le texte des conventions, l'on devra s'en référer aux principes généralement admis pour l'interprétation des lois internes, vis à vis desquelles elles possèdent „une autorité supérieure". (Constitution de la IVème République du 27 octobre 1946, art. 28).

L'on aura ainsi à examiner tout d'abord l'ensemble de la convention, son économie génerale, à défaut de pouvoir se reporter aux travaux préparatoires, aux discussions des négociateurs qui demeurent inconnus. Du rapprochement de leurs différents articles, de leur combinaison, l'on devra pouvoir dégager certains principes directeurs, une atmosphère essentielle, des „lignes de force" comme disaient les rédacteurs du décret de Réforme fiscale du 9 décembre 1948, qui serviront de base aux solutions positives dans les situations que le texte n'a pas prévues ou, à tout le moins, énoncées.

Il conviendra ensuite de rechercher le but poursuivi par la convention; si la loi est muette sur tel point déterminé, quelle a pu être la volonté du législateur; ou, dans le domaine qui nous occupe, en concluant telle convention, qu'ont pu vouloir faire les négociateurs, quelles situations ont-ils eu l'intention de règler, quelles personnes avaient ils vraisemblablement à l'esprit lorsqu'ils discutaient?

Enfin, et sans du reste perdre de vue qu'aux termes de l'article

26 de la Constitution, „les traités diplomatiques régulièrement ratifiés et publiés ont force de loi, dans le cas même où ils seraient contraires à des lois internes françaises", il conviendra de rechercher comment elles peuvent se combiner le plus harmonieusement avec les principes généraux de notre droit fiscal: entre deux solutions possibles dans le silence ou l'obscurité du texte conventionnel, l'une heurtant les règles du Code Général des Impôts, l'autre au contraire les épousant, il est bien évident que c'est cette seconde que devra être admise.

Ces modes d'interprétation nous conduiront à poser en postulats les principes suivants:

1°/ si les exceptions en matière fiscale sont de droit étroit et ne peuvent être étendues au delà de leurs strictes limites légales, en sens inverse „rien ne permet de distinguer là où la loi ne distingue pas" et d'établir des discriminations que la loi, ou les conventions internationales qui en tiennent lieu n'ont pas prévues.

2°/ les conventions internationales tendant à éviter les doubles impositions ne doivent pas aboutir à une double non imposition.

3°/ pour que les dites conventions trouvent à s'appliquer, il est nécessaire qu'elles rencontrent — et ceci n'est pas un truisme — un point d'application, c'est à dire, en l'espèce, une personne — individu ou entreprise — susceptible d'être frappée, à défaut de convention, par une double imposition: une telle personne sera nécessairement un „contribuable".

Mais dès lors qu'il y aura „contribuable", les conventions intervenues nous paraissent incontestablement devoir lui être applicables sans autre restriction qué celles qui y seraient, le cas échéant, exprèssément inscrites.

Ainsi la notion de „contribuable" du reste énoncée de manière formelle dans les convention franco-belge, franco-italienne et franco-suisse, et sous une forme moins nette par le terme „les résidents" dans la conventions franco-britannique, semble-t-elle seulement sous-entendue, comme allant de soi, dans les autres. Elle apparaît d'autant plus fondamentale que si elle disparaît, à l'égard d'une personne déterminée, au regard de l'une ou l'autre Etat, la question non seulement ne se pose plus mais perd tout sens.

La reconnaissance du critère du „contribuable" pour base d'appli-

cation des conventions internationales de double imposition paraît donc devoir conduire, pour la solution de divers cas particuliers, aux conséquences suivantes:

Nous les examinerons, pour la clarté de l'exposé, en distinguant les individus, personnes physiques et les entreprises normalement constituées en Sociétés, personnes morales.

I. — PERSONNES PHYSIQUES

Des principes ci-dessus dégagés nous concluerons que toute personne physique, quelle que soit sa nationalité, peut se prévaloir des conventions de double imposition conclues par la France si elle est régulièrement établie en France et s'y trouve dès lors soumise à l'impôt sur les personnes physiques selon les règles générales qui lui sont propres. Il doit en être ainsi même s'il s'agit d'une personne ayant conservé la nationalité ou originaire d'un pays n'ayant pas conclu de convention de double imposition avec la France.

L'intéressé contribuant, par hypothèse, aux ressources du Trésor français au même titre et selon les mêmes règles d'imposition qu'un citoyen français, doit bénéficier, dans les mêmes conditions que ce dernier, des conventions conclues par la France.

Ainsi doit-on admettre, par exemple, qu'un grec installé en France et soumis à l'Impôt sur le Revenu des Personnes physiques dans les mêmes conditions qu'y serait assujetti un français ayant des revenus semblables et présentant à l'encaissement des coupons de valeurs mobilières des U.S.A. échappe entièrement à l'impôt de distribution français par application de l'art. 7 de la convention du 18 octobre 1946.

Dans le même sens, un inventeur italien installé en France et qui y est imposé dans les mêmes conditions qu'un français percevant des redevances pour l'exploitation de ses brevets en Belgique ne saurait y être taxé à l'occasion des dits revenus par application de l'art. 9 par. 2 de la convention franco-belge et sera régulièrement imposé en France à leur sujet, tandis qu'à l'inverse les redevances qui lui seraient dûes au Canada ne seraient pas imposables en France par application de l'art. 13 de la convention franco-canadienne.

Mais cette assimilation des étrangers aux nationaux français qui ne nous paraît devoir soulever aucune controverse, dès lors que ces étrangers sont, du fait de leur établissement en France,

soumis aux mêmes règles que les Français pour l'ensemble de leur situation fiscale, ne saurait évidemment être envisagée dans le cas où ces étrangers ne sont pas ,,contribuables'' français. Il nous paraîtrait par exemple difficile d'admettre qu'un étranger, de quelque nationalité soit il, qui présenterait au paiement, au cours d'un voyage d'affaires ou d'agrément en France, des coupons de société belge puisse revendiquer la diminution de 12 points de l'impôt français prévue en principe par l'art. 6, par. 5, de la convention franco-belge.

S'il s'agissait du reste de revenus de valeurs mobilières britanniques, droits d'auteurs, licences d'exploitation de brevets perçus en Grande Bretagne, la question ne se poserait même pas, puisqu' en vertu des engagements pris par les hautes parties contractantes lors de la signature de la convention du 14 décembre 1950, il serait nécessaire à l'intéressé pour obtenir le remboursement de l'income-tax britannique, de produire une attestation visée par son inspecteur français des contributions directes certifiant qu'il est régulièrement soumis à l'impôt français, ce que, par hypothèse, il n'est pas.

C'est dans le même sens que nous paraît devoir être résolue la situation des militaires et membres des services de l'O.T.A.N. qui, bien que stationnés et résidant en fait sur notre territoire, n'en sont pas pour cela contribuables français.

De même les nationaux français établis à l'étranger qui n'ont pas de résidence habituelle en France et ne disposent pas de revenus de propriétés, exploitations ou professions sises ou exploitées en France ne sont pas ,,contribuables'' français: ils paraissent donc devoir être exclus du bénéfice des conventions passées par la France et ne pouvoir revendiquer, le cas échéant que le bénéfice de celles conclues par le pays où ils ont leur domicile fiscal.

La question est plus délicate vis à vis des Français domiciliés à l'étranger et qui, tout en n'ayant pas de résidence habituelle en France, disposent néanmoins de revenus de propriétés, exploitations ou professions sises ou exercées en France. L'art. 4-2 C.G.I. soumet en effet ces personnes à la surtaxe progressive à raison des dits revenus ,,sous réserve des dispositions internationales''.

Il conviendra donc, pour déterminer leur situation fiscale en France, de procéder à l'examen des conventions de double imposi-

tion intervenues entre notre pays et celui où réside l'intéressé: c'est ainsi que les personnes de nationalité française domiciliées au Canada, aux Etats-Unis, en Grande-Bretagne, en Italie, ainsi, semble-t-il qu'aux Pays-Bas et n'ayant pas de résidence habituelle en France ne doivent pas être soumis à la surtaxe progressive à raison des revenus qu'elles retireraient de leurs propriétés ou revenus en France et il doit en être de même en vertu du décret du 2 septembre 1954 des Français domiciliés en Belgique, qui n'ont pas dans notre pays une résidence habituelle. Les uns et les autres ne sauraient dès lors, d'après nous, se prévaloir des conventions passées par notre pays avec un pays autre que celui dans lequel ces personnes ont leur résidence.

A l'inverse, en vertu des conventions franco-allemande/autrichienne (art. 14), franco-suédoise, franco-suisse et franco-sarroise, les Français domiciliés en Allemagne-Autriche, Suède, Suisse ou Sarre sont exonérés dans ces pays de l'impôt personnel sur l'ensemble de leurs revenus à raison de ceux provenant de biens ou d'activités en France, de telle sorte que ces revenus demeurent, en principe, sauf en ce qui concerne certains traitements et salaires,frappés par la surtaxe progressive en France. Nous devrons en conséquence admettre que ces personnes demeurent susceptibles de revendiquer, le cas échéant, le bénéfice de toute convention passée par la France.

Si l'on envisage le cas des membres des organismes internationaux qui sont exonérés en France de tout impôt sur les traitements qui leur sont versés par ces organismes l'on ne peut perdre de vue qu'ils n'en conservent pas moins dans notre pays des situations personnelles souvent importantes à raison desquelles ils „contribuent" selon les règles générales du Code des Impôts. Il ne paraît donc pas que ces personnes puissent se voir exclues du bénéfice des conventions de double imposition passées par notre pays. Dans l'hypothèse, notamment où elles percevraient des revenus de valeurs mobilières d'origine anglaise ou suédoise, il leur serait aisé de fournir le certificat d'imposition prévu par les conventions. Ce n'est pas parce qu'une partie de leurs revenus, — les traitements des organismes internationaux — sont exonérés d'impôt, que l'attestation au titre de l'ensemble de leurs autres revenus imposables pourrait leur être refusée.

Une difficulté particulière se présentera pour les contribuables

de nationalité française ou étrangère qui n'ont pas leur domicile réel en France, mais y possèdent une ou plusieurs résidence et sont dès lors imposés, en vertu de l'art. 164-2 C.G.I., sur un revenu forfaitairement fixé à cinq fois la valeur locative de leurs résidences françaises. Peut-on considérer que ce forfait les fait contribuer suffisamment aux ressources de l'Etat pour pouvoir les assimiler à l'ensemble des contribuables français et les faire bénéficier, le cas échéant, des conventions conclues par la France; ou doit-on au contraire estimer que ce forfait n'en fait pas des contribuables susceptibles de revendiquer l'application des dites conventions? Si l'on retient la notion du domicile fiscal, il semble qu'il conviendra de conclure par l'exclusion de cette catégorie de personnes: ainsi, d'après nous, un français, ou un étranger, établi à l'étranger mais possédant en France une résidence au titre de laquelle il est imposé selon le forfait fixé à l'art. 164-2 C.G.I. ne saurait prétendre au bénéfice des conventions de double imposition signées par la France.

II. — PERSONNES MORALES

Trois situations sont, semble-t-il, à considérer:

1° *La firme étrangère se livre dans notre pays à une exploitation à laquelle ne peut être reconnu le caractère „d'établissement stable".*

Telle serait, par exemple, la situation, qui a donné lieu à l'arrêt du Conseil d'Etat du 26 octobre 1942, (R.O. 21e vol. p. 1961), d'une Société étrangère qui se livre habituellement à des opérations de cautionnement pour le compte de clients domiciliés sur notre territoire moyennant une rémunération demandée à ceux-ci, encore bien qu'elle n'y possèderait aucune succursale mais seulement des représentants apparaissant en fait, comme de véritables préposés; ou bien celle visée à l'arrêt du Conseil d'Etat du 29 novembre 1946 (R.O. 23e vol. p. 95) de la société étrangère qui se livre habituellement en France à des opérations de fourniture de tabac et cigarettes à la Régie française; et, plus généralement, toutes les entreprises établies à l'étranger qui effectuent directement sur notre territoire un cycle complet d'opérations, tel qu'achat et vente de marchandises (C.E. 8 juin 1937 R.O. 17e vol. p. 363).

En principe, les opérations ainsi effectuées sur notre territoire

sont imposables en France en vertu du principe de la territorialité de l'impôt.

Mais, dans toutes les conventions de doubles imposition passées par notre pays, la France a renoncé à l'imposition des opérations qui ne sont pas réalisées par des „établissements stables" exploités sur notre territoire par l'entreprise étrangère.

Il en est également ainsi des *bureaux d'achat* installés par des firmes étrangères sur notre territoire, dont les opérations sont en principe imposables, mais que la plupart des conventions de double imposition, sauf celles avec l'Allemagne/Autriche et avec l'Italie ont exonéré de l'impôt français.

C'est ainsi que si un *„établissement non stable"* ou un bureau d'achat de société étrangère autre qu'allemande, autrichienne ou italienne présente à l'encaissement en France des coupons hollandais, il ne pourra prétendre à l'exonération aux Pays Bas de l'impôt prélevé à la source sur ces produits. En effet, l'art. 8 de la conventions franco-néerlandaise du 30 décembre 1949 tel qu'il a été modifié par l'art. 1 de l'avenant signé le 24 juillet 1952 stipule que „les revenus des valeurs mobilières ne sont imposables que dans l'Etat sur le territoire duquel le bénéficiaire a son domicile fiscal." Comme de tels établissements n'ont évidemment pas en France leur domicile fiscal puisqu'il n'y sont pas imposables, et n'y ont pas leur direction effective (art. 2 p. 4 de la convention franco-hollandaise), la Convention ne saurait leur être applicable.

Cette doctrine conduira, en sens inverse, à la conséquence, en apparence singulière, que les établissements stables et bureaux d'achat qui dépendent de sociétés ressortissant de nations qui n'ont pas conclu avec notre pays de convention de double imposition se trouveront, au regard de l'application des conventions passées par la France avec d'autres pays, dans une situation privilégiée par rapport aux établissements de même nature dépendant de firmes qui ont la nationalité d'un pays ayant passé une convention avec la France; étant en effet soumis sur notre territoire à tous les impôts établis par la législation en vigueur, il y aura lieu de conclure que ces établissements sont fondés à se prévaloir des conventions passées par la France avec d'autres pays. Mais il faut bien voir qu'en décider autrement serait soumettre les opérations réalisées sur notre territoire par ces établissements „non stables" non plus seulement à

une double mais à une triple imposition: dans le pays originaire des revenus, dans le nôtre, et dans le pays dont leur firme est ressortissante.

Leur reconnaître le droit de bénéficier, comme tout „contribuable" français, des conventions de double imposition conclues par notre pays conduit seulement à limiter à deux les impositions dont leur activité sera redevable: dans le pays originaire des revenus *ou* dans le nôtre selon l'activité considérée et les termes de la convention intéressée, *et* dans le pays dont la firme est ressortissante.

Ainsi pour les établissements „non stables" dépendant de pays n'ayant pas conclu avec la France de convention tendant à éviter les doubles impositions, il y aura bien deux impositions tandis qu'il pourra n'y avoir qu'une seule imposition, dans le pays dont la firme est ressortissante, si ce pays a passé une convention avec celui d'où émanent les revenus touchés par l'établissement non stable, ou le bureau d'achat exploité en France.

2° La firme étrangère exploite dans notre pays un établissement stable.

Dans cette situation, le dit établissement est soumis, par l'ensemble des conventions, au régime fiscal généralement applicable aux entreprises françaises de même nature. Une seule restriction est apportée en ce qui concerne l'établissement de l'impôt institué par la loi du 29 juin 1872 et le décret du 6 décembre suivant (actuellement art. 109 et 1674 C.G.I.), qui est, en règle générale, limité au montant des bénéfices ou profits réalisés en France (aux ¾ de ceux-ci dans la convention avec les U.S.A.), mais le principe même de l'imposition est maintenu.

Sous cette réserve, d'importance secondaire, les établissements stables des sociétés étrangères établies en France sont entièrement assimilés aux entreprises françaises: „les entreprises américaines, stipule en particulier l'art. 4-1 de la convention du 25 juillet 1939, qui possèdent des établissements stables en France, sont tenues de fournir à l'administration fiscale française, les mêmes justifications en ce qui concerne les dits établissements, que les entreprises françaises."

Soumis aux mêmes impôts que celles-ci, avec notamment la

faculté, explicitée dans la plupart des conventions, pour l'Administration de rattacher, conformément à l'art. 57 C.G.I., aux bénéfices France les profits indûment transférés à la Société étrangère, il paraît incontestable que ces établissements doivent bénéficier, au même titre que les entreprises françaises, des conventions passées par la France.

L'on ne saurait, à notre sens, utilement soutenir pour leur dénier ce droit, que l'établissement stable établi en France n'est qu'un „département" de la Société étrangère, et ne peut donc avoir de droits propres, autres que ceux que peut tenir la Société des conventions passées par son pays avec le tiers pays; ni que la personnalité n'est attribuée fictivement à l'établissement stable que pour la détermination des profits que réalise cet établissement en France, mais que pour tout le reste c'est l'entreprise étrangère qui est titulaire des droits; ni enfin que la plupart des conventions énumèrent parmi ceux qui doivent être regardés comme établissements stables les sièges de „direction effective" et que la direction effective de l'établissement sis en France est très certainement au Siège de la Société étrangère.

Une telle argumentation apparaît de peu de poids: lorsque la convention franco-belge stipule (art. 7 par. 3): „sont considérés comme établissements stables les sièges de direction effective, succursales, fabriques, usines, ateliers, agences, magasins, bureaux, laboratoires, ainsi que toutes autres installations fixes de caractère productif"; lorsque la convention franco-britannique stipule (art. 2 -1K) que „l'expression établissement stable désigne une succursale, une direction, une fabrique ou tout autre centre fixe d'affaires dans lequel est exercé en totalité ou en partie l'activité de l'entreprise"; lorsque la convention franco-norvégienne (art. II-3) énonce que „l'expression établissement stable désigne le siège de direction effective, les succursales, fabriques ou autres installations permanentes, dans lesquelles s'exerce en tout ou partie l'activité de l'entreprise", lorsque la convention franco-suédoise (art. IV du Protocole) considère comme établissements stables „les sièges de direction, succursales, fabriques, usines, ateliers, agences, magasins, . . . ainsi que toutes autres installations fixes de caractère productif"; il apparaît bien que ce terme de „direction effective" ou de „siège de direction" tend à permettre d'imposer

dans notre pays les établissements de l'espèce dépendant d'une Société étrangère dès lors qu'ils ont un caractère productif ou que s'y exerce en totalité ou en partie l'activité de l'entreprise.

Une interprétation différente conduirait du reste à retirer sur ce point toute portée aux conventions signées par la France, puisque, si l'on devait décider que la „direction effective" est toujours au siège de la Société étrangère, aucun des sièges de direction établis en France et dont les conventions réservent pourtant l'imposition à notre pays ne devrait plus être regardé comme „établissement stable" et ne saurait donc plus être imposé dans notre pays.

L'on peut également penser que le terme de siège de „direction effective" a pour objet de préciser qu'un simple bureau géré par un préposé ne saurait être regardé comme un établissement stable; que, pour qu'il en soit ainsi, il faut qu'il y ait, comme dans une usine, une fabrique, une „direction effective" avec pouvoir d'engager et de débaucher du personnel, de passer des marchés, de fixer les conditions de production, sous le contrôle et selon les directives générales de la Société étrangère bien entendu, mais la „direction effective" de l'établissement sis en France n'en appartenant pas moins à celui-ci.

Rien, d'autre part, ne permet de prétendre que les établissements stables ne sont reconnus comme tels dans notre pays que pour la détermination de leur imposition, mais que pour tout ce qui est susceptible de leur profiter seule l'enprise étrangère peut, le cas échéant, être titulaire de droits.

Une semblable position supposerait une telle rouerie que nous nous refusons à penser qu'elle ait pû jamais effleurer l'esprit des négociateurs. Elle se heurterait au surplus, non seulement au principe général de notre droit fiscal selon lequel „rien ne permet de distinguer là ou la loi ne distinque pas", mais encore aux termes mêmes des conventions qui fondent sur l'établissement stable bien d'autres notions que celle de la détermination des profits réalisés: telles que celle de l'Etat où sont imposés les revenus d'un prêt effectué ou d'un dépôt consenti (convention franco-suédoise, art. 8 par. 2), celle de l'Etat où sont imposables les droits d'auteur, les redevances provenant de la vente ou de la cession de licences d'exploitation de brevets, marques de fabrique, location de films

cinématographiques (convention franco-néerlandaise art. 10 par. 2 et 3).

La reconnaissance effective de l'indépendance — au regard de la loi fiscale — de l'établissement stable en France d'une société étrangère vis à vis de celle-ci est du reste faite par l'Administration française, lorsque ledit établissement stable se trouve propriétaire de valeurs mobilières émises par une société française: la Régie considère que les revenus de ces valeurs sont dans tous les cas et nonobstant toute convention de double imposition imposables en France, comme attribués à un bénéficiaire: l'établissement stable, qui a donc domicile fiscal en France.

L'établissement stable ne peut être un Janus bifrons dont l'une des faces serait exposée sans ménagements aux ardeurs de la fiscalité tandis que l'autre, tournée vers l'application des conventions de double imposition, se trouverait noyée dans l'ombre.

3° *La firme étrangère a constitué dans notre pays une Société selon la loi francaise.*

Ce cas est très fréquent, car il évite aux entreprises étrangères maintes difficultés. Une telle société aura pu être créée au moyen de capitaux dont l'Office des Changes aura autorisé l'investissement en France, ou de toute autre manière.

La Société se sera constituée et fonctionnera selon les termes et dans les conditions fixées, soit par la loi du 24 juillet 1867 pour les sociétés par actions, soit par la loi du 7 mars 1925 pour les Sociétés à responsabilité limitée; elle aura son siège social en France et les assemblées de ses actionnaires ou associés s'y tiendront.

Dans cette situation, il nous paraît qu'aucune discussion n'est possible: une telle Société est fondée à revendiquer en tous points, le bénéfice de toutes les conventions de double imposition signées par la France.

Si la jurisprudence de la Cour de Cassation n'admet pas que la conception du droit privé selon laquelle la nationalité d'une Société est déterminée par le lieu du siège social, puisse être transportée sans réserve dans le domaine du droit public et autoriser ainsi toutes les Sociétés ayant leur siège sur notre territoire, à revendiquer vis à vis de l'Etat, tous les privilèges attachés à la qualité de Français (A. JOLY Dict. Sté Anonymes — V°: Stés Etrangères n° 3),

il n'en est pas moins que dans l'objet qui nous occupe, de telles Sociétés, même si la totalité de leur capital est d'origine étrangère, sont des Sociétés françaises. Elles sont soumises à toutes leurs règles de constitution, de fonctionnement, de responsabilité civile et pénale de leurs administrateurs ou gérants: elles ont dû, s'il s'agit d'une société anonyme constituée postérieurement au 31 août 1949 fixer au minimum à 10.000 Fr la valeur nominale de leurs actions et s'il s'agit d'une société à responsabilité limitée dont le capital était inférieur à 1 million, elles devront le porter à ce chiffre ou changer de forme avant le 11 juin 1957, par application du décret du 9 août 1953.

Au surplus, et sur le terrain proprement fiscal, il résulte de l'article 717 C.G.I. que sont considérées comme françaises les sociétés ayant leur siège social en France et celles qui, constituées dans les termes de la loi française, ont leur siège dans un territoire d'Outre Mer de l'Union Française ou dans un Etat associé (F.D.P. Fr. Lefèbvre Sie I.S. — Don VI n° 206-Cf également Combes et Nègre — Les taxes dûes par les Sociétés françaises n° 2 et Jean MICHEL: Droit fiscal des Sociétés françaises et Etrangères 3ème édit. n° 866). La question de l'application à ces dernières des conventions bilatérales de double imposition ne se posera du reste pas, car, ainsi que nous l'avons indiqué au début de cette doctrine, ces territoires, sont en principe exclus du domaine des dites conventions.

En définitive, de telles sociétés, même constituées avec des capitaux étrangers, sont des sociétés françaises, dès lors qu'elles ont été constituées sans fraude, conformément à la loi française et que leur siège social est régulièrement situé en France: elles peuvent donc se prévaloir de toutes les conventions de double imposition conclues par notre pays.

Les principes dégagés et les solutions données au cours de cette étude à un certain nombre de situations prises à titre d'exemple doivent pouvoir aider à résoudre d'autres cas particuliers semblables ou „a contrario", susceptibles de se présenter dans la pratique. Et si nous pouvions nous permettre, en conclusion, de formuler une suggestion, ce serait que, pour éviter à l'avenir les difficultés que nous avons signalées; il soit inscrit dans les futures conventions à intervenir, et complété dans celles existantes, une formule analogue à celle, excellente, figurant à l'art. 1er de la convention franco-

belge du 16 mai 1931: „Les contribuables qui ont leur domicile fiscal dans l'un des deux Etats contractants et dont certains revenus, proviennent, en tout ou partie, de l'autre Etat, bénéficieront, à raison de ces revenus, du régime spécial établi par les articles ci-après."

UNITED KINGDOM INCOME TAX ALLOWANCES AVAILABLE TO CERTAIN FOREIGN RESIDENTS

by

RICHARD MOSS

For many years, British subjects resident in countries outside the United Kingdon have, when computing their liabilities to U.K. tax, been able to claim certain allowances and reliefs which were not available to non-British subjects (with the exception of a limited class of persons such as servants of the Crown etc. who regardless of nationality were regarded as British subjects for this purpose).

In recent years, however, an interesting introduction has been made into some Double Taxation agreements between the U.K. and certain other countries extending these allowances to all residents of the countries concerned, whether British subjects or not. At the time of writing, the continental countries whose residents qualify are:

Belgium, Denmark, Federal Republic of Germany, Finland, France, Greece, Netherlands, Norway and Sweden.

The legislation covering the calculation of these allowances is to be found in Section 227 of the United Kingdom Income Tax Act, 1952, subsection (2) of which reads as follows:

> "... no such relief ... shall be given so as to reduce the amount of the income tax other than surtax payable by that individual below the amount which bears the same proportion to the amount which would be payable by him by way of income tax other than sur-tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in the United Kingdom, as the amount of the income subject to income tax so charged bears to the amount of his total income."

This intricate wording is used to lay down the strict basis of computation (as will be seen in Example (1) below) but, in simple terms, it means that the relief granted is that proportion of the allowances available to a U.K. resident which the claimant's income liable to U.K. tax bears to his total income from all sources.

The first step, therefore, in computing a claim of this nature, is to divide the individual's income into its two components:

(a) income subject to U.K. tax

and (b) income not so subject.

In computing (b), regard must be had to any class of income which is exempted from U.K. tax under the terms of the Double Taxation agreement and also to those sections of the U.K. taxation statutes which exempt the income derived by non-residents from certain British Government and other securities. These securities are:

4% Victory Bonds 1920-76
3½% War Loan 1952 or after
3% War Loan 1955-59
4% Funding Loan 1960-90

and, so long as the interest does not form part of trading profits, income derived from:

3% Defence Bonds (Issues 2, 3 and 4 but excluding the 3% Conversion of Issue 2 and the 3½% Conversion of Issue 3)
2½% Defence Bonds (excluding the 2½% Conversion of Issue 1 of the 3% Defence Bonds)
3% Savings Bonds 1955-65
3% Savings Bonds 1960-70
3% Savings Bonds 1965-75

(Section 195 (1), Income Tax Act, 1952).

In addition, Section 120(1), Income Tax Act 1952 exempts all dividends payable in the U.K. derived by non-residents from securities issued by a foreign state, the British Dominions, India and the Republic of Ireland, while Section 190(1) adds to the list interest, dividends or other annual payments payable in the U.K. out of, or in respect of the Stocks, funds shares or securities of any body of persons not resident in the U.K., together with annuities, pensions

and other annual sums payable out of any institution in India or Pakistan.

Having classified the income as "liable" or "non-liable", the next step is to determine the liability to U.K. tax that would arise if the claimant were subject thereto on *all* his income and then compute the proportion thereof which gives effect to Section 227.

Example (1)

X, a married man with two children is a Dutch subject resident in the Netherlands. His income for the year ended 5th April 1955[1] comprised:

(a) Business profits in Holland	£3,175	
(b) Dividends from Dutch Companies	200	
(c) Dividend from a U.K. company taxed at source	530	£238/10/—
(d) U.K. copyright royalties	325	
(e) Interest from U.K. 4% Funding Loan	10	4/10/—
	£4,240	£243/—/—

Compute the amount of tax repayable in the U.K.

	Gross	*Tax paid*
Income liable to U.K. tax		
(c) Dividend from U K. company	£ 530	£238. 10. 0d.
Income not liable to U.K. tax		
(a), (b), (d)[1]) and (e)[2])	3,710	4. 10. 0d.
Total Income:	4,240	243. 0. 0d.

Less: Earned Income Relief (maximum)	450	
Personal Allowance	210	
Child Allowance	170	830
		£3,410

[1]) These are exempt under Article VII of the Anglo-Netherlands Convention and would be paid without deduction of U.K. Income Tax. At the time of writing it is understood that there is some doubt as to whether these items are rightly classified as income not liable to U.K. tax and it is probable that this point might have to be decided in the Courts.

[2]) Exempt under Section 195(1) I.T.A. 1952 and tax would be repaid on submission of a claim.

Income Tax (excluding sur-tax) chargeable:

(i) At reduced rate	£100	@ 2/6	£12. 10. 0d.
	150	@ 5/–	37. 10. 0d.
	150	@ 7/–	52. 10. 0d.
(ii) At standard rate	3,010	@ 9/–	1,354. 10. 0d.
	£3,410		£1,457. 0. 0d.
530/4240 thereof			182. 2. 6d.
Repayable:			£ 60. 17. 6d.

The above example follows the strict procedure laid down by the wording of Section 227(2) quoted earlier. It will be observed, however, that the same result will be obtained by the following "short-cut" method which brings out more clearly the principle involved:

Reliefs due: Earned Income Relief, Personal and Child Allowances as above	£830	@ 9/–	£373. 10. 0d.
Reduced Rate Relief	100	@ 6/6	32. 10. 0d.
	150	@ 4/–	30. 0. 0d.
	150	@ 2/–	15. 0. 0d.
			£451. 0. 0d.
530/4240 thereof			56. 7. 6d.
Add: Repayment of tax suffered on non-liable income			4. 10. 0d.
Repayable:			£ 60. 17. 6d.

One point of major practical concern to non-residents eligible to claim relief under Section 227 is the restriction in repayment due to the operation of Section 350, Income Tax Act 1952. This section relates to dividends paid by U.K. companies out of profits which have received Double Taxation Relief. The position is best explained by way of the following example.

Example (2)

D. Ltd., a U.K. company, makes a profit for the year ended 31st March 1954 amounting to £20,000 of which £6,000 has borne foreign

tax at the rate of 40%, all of which falls to be relieved against U.K. income tax under a Double Taxation Agreement.

The company's U.K. income tax liability for 1954/55 would, therefore, be computed as follows:

U.K. profits		£14,000
Foreign profits	£6,000	
– gross equivalent @ 40%		10,000
		£24,000
Liability thereon @ 9/–		£10,800
Less: Double Taxation Relief		
– £10,000 @ 40%		4,000
Net liability in U.K.		£ 6,800

This gives a net U.K. effective rate of tax of 5/8 in the £ (viz: 6,800/24,000)

The company's Profit and Loss Account (as abbreviated) would now appear thus:

To: Income Tax payable	£ 6,800	By: Profit for year	£20,000
,, Dividend payable	13,200		
	£20,000		£20,000

Under the rules for deduction of tax at the source, however, the net dividend of £13,200 would, by virtue of Section 184, Income Tax Act 1952, have to be recorded as:

Gross dividend		£24,000
Less: Tax at standard rate of 9/–		10,800
Net:		£13,200

and, but for Section 350, the sum of £10,800 would be available for recovery by shareholders who were entitled to tax rebates. This would obviously be unfair to the U.K. Revenue which has only received £6,800 from the company, so a note would be added to the dividend counterfoils in the following terms:

> "By reason of Double Taxation Relief, the net U.K. rate of tax payable by the company is 5/8 in the £. Under Section 350 of the Income Tax Act 1952, tax is deductible by the com-

pany from this dividend at the full standard rate of 9/– in the £ but the rate at which any relief or repayment due may be allowed to a shareholder is limited to the net U.K. rate."

The maximum amount repayable by the Revenue cannot, therefore, exceed £24,000 at 5/8 in the £ viz: £6,800.

Let us assume that, in Example (1) above, X's dividend of £530 was derived from D Ltd. His dividend counterfoil would read:

Gross Dividend	£530. 0. 0d.
Less: Tax at 9/–	238. 10. 0d.
Net:	£291. 10. 0d.

and a note would be added pursuant to Section 350 stating that the company's net effective rate was 5/8. in the £.

X's repayment claim would now be computed as follows:

(a) Earned Income Relief, Personal and Child Allowances: 530/4240 × 830 = £103. 15. 0d.

Relief is due at 9/– in the £ but is restricted to 5/8 in the £ viz £29. 7. 11d.

(b) Reduced Rate Relief: 530/420 × 100 = £12. 10. 0d. Relief is due on this band at 6/6 in the £ but is restricted to 5/8 in the £ viz 3. 10. 10d.

(c) The remainder of the Reduced Rate Relief (530/4240 × £150 @ 4/– plus 530/4240 × £150 @ 2/–) is due at rates less than 5/8 in the £ and will not, therefore, be restricted 5. 12. 6d.

38. 11. 3d.

Add: Repayment of tax suffered on no-liable income 4. 10. 0d.

Repayable: £43. 1. 3d.

On the face of it, the Section 350 restriction appears to have cost X £17. 16. 3d but he has not, in fact, suffered any undue hardship since D Ltd has been enabled, by the Double Taxation Relief it has received, to pay a net dividend greater than it could have done had no relief been available (although, it must be admit-

ted, no greater than if the whole of its profits had been earned in the U.K.).

The procedure for making a claim under any particular Double Taxation Agreement is firstly to write to:

The Chief Inspector of Taxes (Claims),
Seafield House,
Waterloo Road,
Seaforth,
Liverpool 21,
England.

requesting Form R 239. This form, which has to be completed in English, is merely to give basic information such as the name and address of the claimant, dates of residence (if any) in the U.K. and the grounds on which the claim is being made. Following submission of Form R 239, the claimant will be issued with Form R 43 (or R 231 in the case of France). This Form is printed in the language of the claimant's country of residence and is, in effect, a declaration (in £ Sterling) of his total income from all sources for the year of claim. The completion of this Form can give rise to some difficulties owing to the complexities of U.K. tax law and although an explanatory leaflet is enclosed it is usually advisable to have it dealt with through a professional agent in the U.K. There is a special section on the form by which the claimant can given authority to the Chief Inspector to settle the claim through an agent.

When the declaration has been submitted and examined, the refund of tax will be calculated and a repayment warrant issued from Liverpool. This will usually be accompanied by a Form R 261 which sets out the manner in which the repayment has been ascertained and shows the make-up of the amount repaid.

In conclusion, it should be appreciated that, where the amount of income subject to U.K. tax is substantial, the reliefs can amount to quite a high figure and any non-resident who may have overlooked this point might well find that he has several years' claims to submit. The time limit for filing a claim is within 6 years from the end of the fiscal year to which it relates. Thus a claim for the year 1949/50 must be made before the 5th April 1956.

II

SURVEYS OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

Austria — *Period from 1st October till 31st December 1955.*

General

Verordnung des Bundesministeriums für Finanzen vom 1. Dezember 1955 zur Durchführung des Grunderwerbsteuergesetzes 1955 (Grunderwerbsteuer - Durchführungsverordnung 1955), B. G. Bl. 1955, p. 1397.

Verordnung des Bundesministeriums für Finanzen vom 22. Dezember 1955 zur Durchführung des Beförderungssteuergesetzes 1953. (6. Beförderungssteuer-Durchführungsverordnung), B.G. Bl. 1955, p. 1527.

Conventions

Vertrag zwischen der Republik Oesterreich und der Bundesrepublik Deutschland über Rechtsschutz und Rechtshilfe in Abgabensachen, B.G.Bl. 1955, p. 1404.

Excise duties

Bundesgesetz vom 6. Dezember 1955 über die Erhebung einer Biersteuer (Biersteuergesetz 1956), B.G.Bl.1955, p. 1454.

Verordnung des Bundesministeriums für Finanzen vom 30. Dezember 1955 über die Durchführung des Biersteuergesetzes 1956. (Biersteuerverordnung 1956), B.G.Bl. 1955, p. 1481.

Belgium — *Period from 1st November till 31st December 1955.*

Droits d'entrée

Arrêté royal du 24 novembre 1955 — Tarif des droits d'entrée, Moniteur Belge, 1955, p. 7858.

Arrêté royal du 24 décembre 1955, relatif au Tarif des droits d'entrée, Moniteur Belge, 1955, p. 8471.

Taxe de Transmission à l'Importation

Arrêté royal du 24 décembre 1955, modifiant l'arrêté royal du 11 mars 1953 majorant le taux de la taxe de transmission à l'importation, Moniteur Belge, 1955, p. 8495.

Taxes assimilées au Timbre

Arrêté royal du 21 novembre 1955, modifiant le Code et le Règlement général sur les taxes assimilées au timbre, Moniteur Belge, 1955, p. 7823.

Arrêté royal du 5 décembre 1955, modifiant le Règlement général sur les taxes assimilées au timbre, Moniteur Belge, 1955, p. 8141.

Matières Diverses

Arrêté royal du 9 novembre 1955, modifiant l'arrêté royal du 11 juillet 1955 concernant les commissions fiscales, Moniteur Belge, 1955, p. 7841.

Arrêté royal du 28 novembre 1955, portant exonération de la taxe de résidence en faveur des ressortissants canadiens résidant en Belgique Moniteur Belge, 1955, p. 8187.

France — *Period from 1st August till 31st December 1955.*

Conventions

Décret no. 55-1678 du 29 décembre 1955 portant publication et mise en vigueur du protocole d'application de la convention économique et financière entre la France et la Tunisie relatif à l'Union douanière, signé à Tunis le 28 décembre 1955, J.O. 1955, p. 12736.

Impôts Directs

Loi no 55-1045 du 6 août 1955 portant fixation du budget annexe des prestations familiales agricoles pour les exercices 1955 et 1956, J.O. 1955, p. 7972.

Décret no. 55-1322 du 6 octobre 1955 fixant les conditions d'application de l'article 4 du décret no 55-486 du 30 avril 1955 relatif au régime fiscal des emprunts négociables émis à l'étranger, J.O. 1955, p. 9872.

Décret no 55-1338 du 8 octobre 1955 fixant les modalités d'application du versement forfaitaire de 5 p 100 afférent aux traitements et salaires en ce qui concerne les catégories d'employeurs agricoles visés à l'article 5 de la loi no 55-1045 du 6 août 1955 portant fixation du budget annexe des prestations familiales agricoles, J.O. 1955, p. 10002.

Décret no. 55-1381 du 18 octobre 1955 fixant les conditions d'application des articles 112-2° et 121-2° du Code général des impôts, J.O. 1955, p. 10446.

Décret no 55-1382 du 18 octobre 1955 déterminant, en exécution de l'article 119-3° du Code général des impôts et de l'article 295 du décret no 48-1986 du 9 décembre 1948, les modalités d'application de l'impôt sur le revenu des personnes physiques (taxe proportionnelle) aux primes de remboursement des obligations et autres emprunts négociables, J.O. 1955, p. 10446.

Décret no 55-1400 du 22 octobre 1955 fixant les modalités d'application de l'article 8 du décret no 55-594 du 20 mai 1955 relatif au régime fiscal des plus-values d'actif immobilisé réalisées au cours d'exploitation, J.O. 1955, p. 10612.

Arrêté du 23 novembre 1955 modifiant les articles 94, 96, 107, 114, 121A, de l'annexe IV du Code général des impôts, J.O. 1955, p. 11421, 11519.

Décret no 55-1603 du 7 décembre 1955 pris pour l'application des articles 109-2 et 1674 du Code général des impôts, J.O. 1955, p. 12012.

Taxes sur le chiffre d'affaires

Arrêté du 29 août 1955 relatif au remboursement des charges sociales et fiscales aux entreprises exportatrices, J.O. 1955, p. 8698.

Arrêté du 28 septembre 1955 relatif au remboursement des charges fiscales et sociales aux entreprises exportatrices, J.O. 1955, p. 9619.

Décret no 55-1576 du 28 novembre 1955 portant modification de la liste des produits agricoles originaires des territoires d'outre-mer de l'Union française exonérés à l'importation des payement de la taxe sur la valeur ajoutée, J.O. 1955, p. 11718.

Taxe intérieure de consommation

Décret no 55-1094 du 11 août 1955 fixant les taux et les conditions d'application du dégrèvement de la taxe intérieure de consommation en ce qui concerne les carburants utilisés par l'aviation civile, J.O. 1955, p. 8227.

Arrêté du 19 août 1955 fixant les conditions d'application aux stocks de produits pétroliers des modifications des taux de la taxe intérieure de consommation prévues à l'article 42 du décret no 55-486 du 30 avril 1955, J.O. 1955, p. 8415.

Arrêté du 10 novembre 1955 portant modification du taux de la taxe intérieure de consommation applicable au fuel oil lourd. J.O. 1955, p. 11061.

Taxe spéciale temporaire de compensation

Arrêté du 3 août 1955 portant suppression de la taxe spéciale temporaire de compensation applicable à certains produits. J.O. 1955, p. 7795.

Arrêté du 3 août 1955 portant modification de l'arrêté du 5 novembre 1954 relatif à la taxe spéciale temporaire de compensation, J.O. 1955, p. 7794.

Arrêté du 1er septembre 1955 relatif à la taxe spéciale temporaire de compensation, J.O. 1955, p. 8730, 8963.

Arrêté du 11 octobre 1955 relatif à la taxe spéciale temporaire de compensation, J.O. 1955, p. 10096.

Décret no 55-1416 du 27 octobre 1955 modifiant le décret no 54-438 du 17 avril 1954 portant institution d'une taxe spéciale temporaire de compensation et le décret no 54-1133 du 16 novembre 1954, qui l'a complété, J.O. 1955, p. 10671.

Arrêté du 27 octobre 1955 portant suppression de la taxe spéciale temporaire de compensation applicable à certains produits, J.O. 1955, p. 10677.

Décret no. 55-1491 du 18 novembre 1955 portant réduction du taux de la taxe spéciale temporaire de compensation applicable aux pommes de terre de semence, J.O. 1955, p. 11281.

Arrêté du 22 décembre 1955 relatif à la taxe spéciale temporaire de compensation, J.O. 1955, p. 12556.

Droits de timbre

Arrêté du 6 août 1955 relatif au payement du droit de timbre des passeports, laisser-passer et titres de voyage, J.O. 1955, p. 7914.

Droit d'accise

Arrêté du 1 août 1955 fixant le cours moyen de certaines eaux-de-vie pendant le deuxième trimestre 1955 et les nouveaux taux de la redevance prévue à l'article 384 du Code général des impôts, J.O. 1955, p. 7761.

Arrêté du 8 août 1955 portant application de l'article 1656 du Code général des impôts, modifié par l'article 21 du décret no 55-594 du 20 mai 1955, relatif à divers aménagements fiscaux, J.O. 1955, p. 7984, 9072.

Arrêté du 29 septembre 1955 fixant le taux de la redevance sur les alcools libres prévus à l'article 382 du Code général des impôts, J.O. 1955, p. 9619.

Droits de douane

Arrêté de 2 août 1955 portant fixation du contingent de linters admissibles en suspension des droits de douane d'importation, J.O. 1955, p. 7761.

Décret no 55-1038 du 5 août 1955 portant rétablissement du droit de douane d'importation applicable à l'aluminium raffiné à 99.95 p 100 et plus, J.O. 1955, p. 7896.

Décret no 55-1092 du 10 août 1955 portant modification de la liste des produits originaires ou en provenance de la Tunisie admissibles en franchise des droits de douane d'importation, J.O. 1955, p. 8226.

Décret no 55-1160 du 1er septembre 1955 relatif au tarif des douanes J.O. 1955, p. 8749.

Arrêté du 1er septembre 1955 portant fixation du contingent et des conditions d'importation en exonération du droit de douane d'importation de certains engrais chimiques azotés (no ex 573 du tarif des droits de douane d'importation), J.O. 1955, p. 8751.

Arrêté du 1er septembre 1955 portant fixation du contingent et des conditions d'importations en exonération du droit de douane d'importation des huiles de baleine brutes (No ex 143c du tarif des droits de douane d'importation), J.O. 1955, p. 8750.

Décret no 55-1224 du 17 septembre 1955 portant suspension provisoire du droit de douane d'importation applicable aux sulfites neutres de sodium résiduaires de la fabrication du phénol. J.O. 1955, p. 9245.

Décret no 55-1225 du 17 septembre 1955 portant suspension provisoire du droit de douane d'importation applicable aux souches microbiennes destinées à la fabrication de vaccins anti-aphteux (ex-690-3 du tarif des droits de douane d'importation), J.O. 1955, p. 9245.

Décret no 55-1321 du 6 octobre 1955 portant modification du décret no 55-23 du 5 janvier 1955 suspendant provisoirement le droit du douane d'importation applicable aux ampoules servant à la fabrication des tubes cathodiques de téléviseurs, J.O. 1955, p. 9872.

Décret no 55-1447 du 8 novembre 1955 portant relèvement des droits de douane d'importation applicables à l'horlogerie, J.O. 1955, p. 11007.

Décret no 55-1495 du 19 novembre 1955 portant suspension provisoire des droits de douane d'importation applicables à certains déchets, alliages et déchets d'alliages de nickel, J.O. 1955, p. 11297, 11402.

Tarif des droits de douane d'importation et d'exportation, J.O. 1955, p D 97-D 274, 12807.

Droits d'importation

Arrêté du 16 août 1955 fixant les conditions d'application du décret no 55-633 du 20 mai 1955 relatif à l'admission en franchise des droits et taxes d'importation des matériels et marchandises évacués du Nord-Viet-Nam, J.O. 1955, p. 8281.

Matières Diverses

Décret no 55-1091 du 10 août 1955 modifiant les articles 249 à 249 E de l'annexe III au Code général des impôts fixant la composition et les règles de fonctionnement de la commission nationale prévue à l'article 694 „bis" (§ 1 du même code), J.O. 1955, p. 8225.

Décret no 55-1260 du 24 septembre 1955 portant modification des règles de compétence en matière de jurisdiction gracieuse concernant les taxes sur le chiffre d'affaires et les impôts directs. J.O. 1955, p. 9496.

Décret no 55-1369 du 18 octobre 1955 portant règlement d'administration publique pour l'application du décret no 55-877 du 30 juin 1955 relatif aux avantages offerts à certains groupements professionnels, J.O. 1955, p. 10353.

Arrêté du 18 octobre 1955 fixant le régime fiscal des cotisations versées à ces groupements, J.O. 1955, p. 10353.

Arrêté du 26 novembre 1955 fixant le taux des frais d'assiette et de perception de la cotisation visée à l'article 13 de la loi no 54-404 du 10 avril 1954, J.O. 1955, p. 11519.

Arrêté du 28 novembre 1955 fixant le taux des frais d'assiette et de perception du prélèvement sur les loyers recouvré au profit du fonds national d'amélioration de l'habitat, J.O. 1955, p. 11685.

Netherlands *Period from 1st November till 31st December* 1955.

Excise Duties

Resolution of December 13, 1955 no 122 with respect to sec 15 of the Royal Decree of March 16, 1922, Ned. Stcrt 1955 no 244, p. 6.

W. Germany *Period from 1st November till 31st December* 1955.

Conventions

Bekanntmachung vom 20. November 1955 über das Inkrafttreten des Abkommens zwischen der Bundesrepublik Deutschland und den Vereinigten Staaten von Amerika über die von der Bundesrepublik zu gewährenden Abgabenvergünstigungen für die von den Vereinigten Staaten im Interesse der gemeinsamen Verteidigung geleisteten Ausgaben, B.G.Bl. 1955, p. 943.

Gesetz vom 8. Dezember 1955 über das Protokoll vom 1. Februar 1955 betreffend die Verlängerung der Geltungsdauer der Erklärung von 24. Oktober 1953 über die Regelung der Handelsbeziehungen zwischen Vertragspartnern des Allgemeinen Zoll- und Handelsabkommens (GATT) und Japan B.G.Bl. 1955, p. 1046.

Customs

Gesetz vom 31. Oktober 1955 zur Aenderung von Vorschriften auf dem Gebiete der Abgaben auf Mineralöl, B.G.Bl. 1955, p 699.

Sechster Gesetz vom 24. November 1955 zur Aenderung des Zolltarifs (Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl), B.G.Bl. 1955, p. 728.

Erste Verordnung vom 13. Dezember zur Aenderung der Mineralölzoll-Vergütungsordnung, B.G.Bl. 1955, p. 804.

Vierte Verordnung vom 17. Dezember 1955 über Erläuterungen zum Zolltarif, B.G.Bl. 1955, p. 805.

Verordnung vom 20. Dezember 1955 zur Durchführung des Truppenzollgesetzes, B.G.Bl. 1955, p. 753.

Siebenundvierzigste Verordnung vom 22. Dezember 1955 über Zollsatzänderungen (Schwefelsäure usw.), B.G.Bl. 1955, p. 883.

Achte Verordnung vom 23. Dezember 1955 über Zolltarifänderungen zur Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl, B.G.Bl. 1955, p. 878.

Fünfzigste Verordnung vom 23. Dezember 1955 über Zollsatzänderungen (Aluminium-Zollkontingent 1956), B.G.Bl. 1955, p. 884.

Zehntes Gesetz vom 24. Dezember 1955 zur Aenderung des Zolltarifs (Vanodium-Titan-Roheisen, Stromschienen), B.G.Bl. 1955, p. 819.

Equalization of Burden Law

Siebzehnte Durchführungsverordnung vom 3. November 1955 über Ausgleichsabgaben nach dem Lastenausgleichsgesetz (17. Abgaben DV-LA-HGA-Erl. DV), B.G.Bl. 1955, p. 704.

Achtzehnte Durchführungsverordnung vom 30. November 1955 über Ausgleichsabgaben nach dem Lastenausgleichsgesetz (18. Abgaben DV-LA-HGA-WAufbDV). B.G.Bl. 1955, p. 745.

Verordnung vom 17. Dezember 1955 zur Aenderung der Zweiten, Dritten, Vierten und Zehnten Verordnung über Ausgleichsleistungen nach dem Lastenausgleichsgesetz, B.G.Bl. 1955, p. 807.

Zweite Verordnung vom 27. Dezember 1955 zur Aenderung der Ersten Durchführungsverordnung über Ausgleichsabgaben nach dem Lastenausgleichsgesetzes B.G.Bl. 1955, p. 885.

Excise Duties

Zweites Gesetz vom 15. November 1955 zur Aenderung des Tabaksteuergesetzes B.G.Bl. 1955, p. 720.

Zweite und Dritte Verordnung vom 17. und 19. Dezember 1955 zur Aenderung der Verordnung zur Durchführung des Mineralölsteuergesetzes, B.G.Bl. 1955, p. 800, 801.

Corporation Profits Tax

Körperschaftsteuer - Durchführungsverordnung vom 23. Dezember 1955, (KStDV 1955), B.G.Bl. 1955, p. 853.

Income Tax

Einkommensteuer - Durchführungsverordnung (EStDV 1955) vom 21. Dezember 1955, B.G.Bl. 1955, p. 756.

Verordnung vom 23. Dezember zur Aenderung der Verordnung zur Durchführung des Steuerabzugs vom Kapitalertrag (Kapitalertragsteuer), B.G.Bl. 1955, p. 860.

Wage Tax

Verordnung vom 23. Dezember 1955 zur Aenderung und Ergänzung der Verordnung über den Lohnsteuer - Jahresausgleich, B.G.Bl. 1955, p. 887.

Sales Tax

Zweite Verordnung zur Aenderung der Verordnung betreffend die Besteuerung der entflochtenen Unternehmen der Stahl und Eisenindustrie auf dem Gebiet der Umsatzsteuer, B.G.Bl. 1955, p. 869.

Australia

Two Reports on Depreciation.

On 7 June the Federal Treasurer, Sir Arthur Fadden, tabled in Parliament two reports on depreciation for income tax purposes. The reports were those of the Commonwealth Committee on Rates of Depreciation and of the Commonwealth Committee on Taxation whose report on Reference No. 18—Depreciation, was dated March 1954. There is much in common in the recommendations of the two Committees, although that of the Hulme Committee is the broader in scope, as might have been expected when regard is had to the more detailed terms of reference laid down for that Committee.

Commissioner's estimates of effective lives of plant.—Both Committees arrived at the general conclusion that the effective life of units of property as estimated by the Commissioner of Taxation as required by s. 55 (1) of the Act are fair and reasonable and neither Committee recommended any change in the law on this point. The Depreciation Committee stated that many amounted to no more than expressions of opinion based on general experience. When witnesses were asked for more specific data the information furnished proved to be, in most cases, too incomplete to enable a firm conclusion to be reached and in some instances failed to materialise at all. The Depreciation Committee concluded that the present system under which the Commissioner, subject to review by a Board of Review, is the determining authority for fixing the rates of depreciation, should be continued.

Concerning s. 55 (1) the Taxation Committee recommended for consideration by the Government the desirability of amending that provision to remove any doubts regarding the powers of the Commissioner to revise the rates of depreciation where reasons justifying such a revision are established to the Commissioner's satisfaction. This aspect was not specifically mentioned by the Depreciation Committee, the point at issue being whether or not there should be legislative authority for the Commissioner to revise the rates once the first calculation is made.

A further point recommended by the Taxation Committee was that in s. 54 (2) (*b*) the words "primary production" should be substituted for the existing words "agricultural or pastoral pursuits." If this proposal were adopted the allowance in respect of structural improvements would be widened to remove any doubt as to whether the present provision covers, for example, glass houses erected on land used for market gardening such as tomato growing.

Increased depreciation rates for diminishing value method.—Both Committees were in agreement that the two existing bases of calculating depreciation, namely, on prime cost and on diminishing value, should be retained. Both Committees rejected representations put to them that additional methods of calculating depreciation should be permitted.

Again, both Committees were in agreement that higher rates of depreciation should be permitted to those taxpayers using the diminishing value method as against those using the prime cost method. The Depreciation Committee was of the opinion that the rates for the diminishing value method

should be fifty per cent higher than the rates permitted to those using the prime cost method and it was recommended that the increased diminishing value rates should be available in regard to existing plant as well as future purchases.

The Depreciation Committee recommended that if the proposed increase in the diminishing value rates is adopted, then an option should be given to taxpayers at present using the prime cost method to change to the diminishing value method if they so desire. This option, the Committee thought, should be available in regard either to the whole of the taxpayer's plant or only to future purchases, in which case the existing plant would be allowed to work out on the prime cost method. Conversely, taxpayers at present using the diminishing value method should be permitted an option to change to the prime cost method either in respect of the whole of their plant or only future purchases. Such an option is given at present, but is available only in regard to the whole of the plant.

Relief on balancing adjustments.—Both Committes recognised that the operation of the balancing adjustments required by s. 59 has, because of inflationary conditions, assumed a significance which in all probability was not envisaged when the provisions were first enacted. Having regard to present-day conditions, both Committees recommended that the special war-time concession embodied in s. 59 (2A)-(2C) should be made a permanent feature of the income tax law. Broadly, these subsections provided that if the taxpayer so elected, any amount by which the consideration receivable upon the loss or destruction of depreciated property exceeded the depreciated value could be deducted from the value of other property subject to depreciation. The practical effect was that, instead of taxing a part of any insurance recoveries in the year of receipt, the depreciated value of plant was reduced by a corresponding amount, resulting in a reduced depreciation allowance over the life of the remaining plant and/or the plant acquired to replace that lost or destroyed. As already noted, both Committees recommended that these war-time provisions should be expanded and adapted so as to apply to all disposals of plant by a continuing business.

The Depreciation Committee went further than the Taxation Committee on this subject and suggested that relief should also be given to the taxpayer who disposes of his plant for the purpose of terminating his business. It was suggested that this might be effected by applying a principle similar to that provided for abnormal income of authors or inventors under Division 16A of the Act. On this basis the actual taxable income including any recovered depreciation of a person putting an end to his business would be taxed at a concessional rate.

Standard rates.—Both Committees also considered the question whether a single rate of depreciation should be specified in the law as a maximum and that a taxpayer, regardless of the composition of his plant and the type of industry in which he is engaged, should have an option in lieu of taking the individual schedule rates, to select any rate up to the specified maximum as an overall rate for application to his plant as a whole. The Taxation Committee favoured an amendment to the law along the foregoing lines; the Depreciation Committee, on the other hand, recommended that no change should be made in the existing law, but that the present practice under which overall rates are fixed by the Commissioner should be continued.

Recognition of obsolescence.—A most important matter dealt with by the Depreciation Committee but which was not considered by the Taxation Committee was whether it is practicable and desirable in determining annual rates of depreciation to take into account possible obsolescence of a unit of property before the effective useful life of that unit is completed. At the present time the depreciation rates are determined on the basis of wear and tear and any further depreciation arising from obsolescence is covered only

by operation of the system of balancing adjustments provided by s. 59. The Depreciation Committee concluded that obsolescence is now so commonly and so consistently encountered that it should be recognised as a substantial element in determining the annual rates of depreciation. The Committee acknowledged the difficulty of deciding the method of making such an allowance and the degree of the allowance and the committee came to the conclusion that the only method that seemed to be practicable is to introduce a degree of flexibility into the annual rates of depreciation. It recommended that the matter should, within prescribed limits, be left in the hands of the taxpayer who, the Committee said, is "with his knowledge of his own industry the best judge of the situation." The Committee recommended that the prescribed limits should set a lower as well as an upper limit to the rate of depreciation and that once a rate has been selected by the taxpayer that rate should be continued during the life of the plant unless altered with the permission of the Commissioner. It was further recommended that an obsolescence allowance should be permitted only in respect of plant having an effective life greater than five years.

Wasting assets.—On the subject of wasting assets both the Depreciation Committee and the Taxation Committee recommended that costs incurred in connexion with patents, registered designs and copyrights should be amortised over the life of the patent or registered design or copyright.

Both Committees also recommended that costs of registration and of renewals of the foregoing rights should be permitted as outright deductions in the year the expense is incurred. It may be noted that in a recent case taken before a Board by the writer, Board No. 1 held that fees incurred in renewing registration of a trade mark are not of a capital nature and are a permissible deduction under s. 51 of the Act.

It is noteworthy that both Committees concluded that the costs of acquiring by purchase either patent rights or a licence to use them should be amortised for income tax purposes irrespective of whether or not the price paid is taxable in the hands of the vendor. It would thus seem that neither Committee favoured any alteration of the existing law as it applies to the vendors of patent rights, etc.

The Depreciation Committee dealt with two other matters concerning wasting assets and which were not dealt with in the particular report of the Taxation Committee which was released simultaneously with the report of the Depreciation Committee. Thus the Depreciation Committee recommended that an allowance spread over the effective life or a prescribed period be given for expenditure on (a) land acquired for the extraction of natural deposits of stone, gravel, clay, sand, etc., and (b) access roads used in the timber industry. The Depreciation Committee suggested in effect that the provisions of Division 10 relating to mining should be adapted for application to quarries, clay pits, etc., but rejected representations that such provisions should also be adapted for application to the timber industry in relation to mill buildings, housing, etc.

Allowance on buildings.—Finally, the most newsworthy recommendation of the Depreciation Committee undoubtedly concerned the question of depreciation allowances on buildings. This subject was also considered by the Taxation Committee which, with one dissentient, recommended, as did the Depreciation Committee, that a depreciation allowance should be permitted on all types of buildings whether industrial or commercial or otherwise, which are used for the purpose of producing assessable income. Both Committees concluded that if such an allowance is granted by the Government it should be based on the cost of original construction of the building. The Depreciation Committee was unanimous that any depreciation allowance on buildings should apply not only to future buildings, but also to existing buildings. On this question the Taxation Committee was divided, two mem-

bers favouring an allowance both for existing and future buildings and two members favouring an allowance only for future buildings.

The reports of the two Committees so far as they relate to depreciation on buildings will be dealt with more fully in a later article. For present purposes it is enough to give only an outline of the Depreciation Committee's proposed plan. In this outline buildings in existence at the commencement of the proposed allowance are referred to as "existing buildings" and those constructed after that date are referred to as "future buildings."

(a) The allowance will apply to all buildings and structures (other than those for which depreciation or other allowances are already given under the law) owned and used by the taxpayer in the production of assessable income.
(b) It will be based on the original cost of construction or, where this is not known, on the deemed cost of construction calculated by reference to a prescribed schedule of building costs.
(c) Where a building is purchased, either before or after the commencement of the allowance, for less than the depreciated value, the allowance to the purchaser will be based on such lower value.
(d) Existing buildings will be treated as though depreciation at the prescribed rate had been deducted each year from the date of construction and the allowance will be limited to the balance of the cost of construction thus remaining at the commencement of the allowance.
(e) Alterations or additions to the original building will be treated for the purpose of the allowance as separate buildings.
(f) The annual rates of depreciation allowable will be 1½ per cent for brick, stone or concrete construction and 2½ per cent for timber, fibro or iron construction, calculated on the prime cost method.
(g) Balancing adjustments will be confined to the amount by which the consideration receivable on sale, loss or demolition falls short of the depreciated value. This amount will be allowed as additional depreciation in the year in which it arises. There will be no recapture provision in respect of depreciation recouped on disposal.

Some comments.—It will be apparent from the foregoing that both Committees were in substantial agreement on all major points reported upon by both. Undoubtedly this measure of unanimity will have its effect on the final decisions to be made by the Government on the recommendations of the two Committees. There is no indication in either of the reports of what might be the cost in revenue to the Commonwealth of the adoption of such major recommendations as that for depreciation on buildings.

Nor in truth is there any record in the reports of fact-findings as to the effects of income tax depreciation allowances on capital expenditures by industry. Under a heading "General Considerations" the Depreciation Committee refers to post-war technological developments and to increasing competition from oversea counterparts of local industries. The Committee went on to say: "The greatly increased costs in recent years and the need to keep plant constantly up to date have given rise to difficulties of finance throughout all sections of industry. These changes in industrial and economic conditions emphasise the need for a review of the depreciation allowances." The report does not, however, record any factual evidence on which a finding could be made that the Committees' various recommendations will actually stimulate expansion and modernisation of plant and equipment. The recommendation for acceleration of the diminishing value method rates of depreciation will, in the writer's view, have little, if any, real effect in encouraging modernisation of plant facilities; the true justification for this alteration would seem to be that the present rates result in an inequitable position as between taxpayers using the diminishing value method and those using prime cost method. It is conceivable that the foregoing recommendation in

combination with that for relief in respect of recouped depreciation on disposals by a continuing business will have some effect upon industry's decisions to replace worn plant with modern plant. The writer thinks that factors other than depreciation, such as demand for products, advantages of technological improvements and the availability of cash will remain the dominant considerations affecting decisions for plant replacement or expansion. Again, the proposed relief on balancing adjustments together with the proposal that obsolescence should be recognised by granting taxpayers a right to select depreciation rates slightly in excess of the basic rates, is not likely to have any spectacular effect upon plant modernisation policies. In brief, the main reason for the adoption by industry of quicker writing off of plant is likely to be found in the benefit of immediate reduction of current taxes with its consequent effect on cash resources.

Whatever merit there might be in the foregoing views it should be said that the Committees, particularly the Depreciation Committee, have completed their tasks with distinction and the Government's decision as embodied in the forthcoming budget will be awaited with interest.

Source: The Australian Accountant, vol 25, no. 7.

Australia

1955-1956 *Budget*

The Federal Treasurer, Sir Arthur Fadden, who brought down the 1955 Budget on 24 August, found no scope for reductions in tax rates for the 1955-1956 financial year. The 1955-1956 rates of income tax both for individuals and companies will be the same as for 1954-1955. Further, he thought the time was not opportune to adopt the recommendations of the Hulme Committee on depreciation allowances. The Budget speech did not foreshadow any changes either in sales tax or pay-roll tax.

No tax concessions. — The Treasurer said that the Budget for this year not only calls for no increase of spending power in the private sector of the economy, but that it offers no scope for reductions in rates of taxation or other concessions which would involve a reduction of revenue in this financial year. Sir Arthur Fadden continued:"

"In any case, even if tax reductions were possible, it would not be in the best interests of the economy under prevailing economic conditions to make them. Tax reductions would add to current spending power and there is already a spending boom in progress.

"Similarly, tax concessions of certain kinds would give a further stimulus to investment which is already making demands upon available labour and materials greater than can be fulfilled."

Time not right for depreciation changes.—Dealing specifically with depreciation allowances the Treasurer said:

"It is primarily from this standpoint that the Government has had to consider the question of allowances for depreciation under the income tax law.

"Following the Budget last year, the Commonwealth Committee on Rates of Depreciation under the chairmanship of the Honourable Member for Petrie, Mr Hulme, was appointed to study this question. In the course of the year the committee produced a most able report containing recommendations which, I believe, have gained a very wide measure of support.

"This recommendations propose solutions for a number of the main issues in this very difficult field and the Government has considered them with a view to adoption in this year's Budget.

"Apart however, from the technical merits of the proposals, which are considerable, the Government has had to consider the possible impact upon the economy of a major move on depreciation at this juncture. This can, of

course, be done without implying any criticism of the proposals which have, indeed, the merit of combining in a skilful way a number of diverse require, ments.

"One of the dominating facts confronting us is that the rate of expenditure on plant, machinery, and buildings is already running so high as to over-strain the resources of the economy. I have already pointed out that total expenditure on capital equipment in 1954-55 was £108m or 15 per cent greater than in the year before.

"Within that total, expenditure on general capital equipment, other than motor vehicles and buildings, was £22m greater than the year before and £51m greater than the year before that. Expenditure on motor vehicles, a considerable proportion of which would come under the proposals, was £46m greater than the year before. Expenditure on commercial and industrial buildings was £20m or 25 per cent higher than the previous year.

"The cost of the proposals, in terms of revenue foregone, would be considerable—it is estimated to be something approaching £40m a year on current levels of investment and rates of taxation. Although the main revenue effect would not be felt until some time later, the economic impact of the proposals would be immediate in so far as investors and the business world generally would be able to anticipate the benefits of a change amounting to a very large tax reduction of a special character.

"The question of timing therefore assumes a very great importance and if, as is clearly evident, investment in plant, buildings, and the like is at present running at levels too high for general stability, the wisest course is to defer action at this time."

Revenue estimates.—The appendix to the printed copy of the Treasurer's speech included the following notes:

Sales tax: Sales tax is expected to yield £106,000,000 in 1955-56, a rise of £5,554,000 as compared with actual collections last year. The estimate allows for the full year cost of the sales tax concessions in the 1954-55 Budget. These concessions were estimated to cost £9,892,000 in 1954-55 and £12,822,000 in a full year.

The estimate of sales tax collections in 1955-56 is based, for the most part, on the assumption that sales of those goods subject to the tax will continue to increase during 1955-56 at about the same rate as in the previous 12 months. Because of import restrictions, however, a repetition of the spectacular increase which occurred in 1954-55 in sales of motor vehicles is not expected.

Income tax: Last year income tax collections from individuals amounted to £361,425,000 or £32,624,000 less than in 1953-54. The fall in collections last year was due primarily to the tax reductions granted in the 1954-55 Budget (estimated to cost £23,200,000 in 1954-55) and to decline in farm incomes. The fall would have been even greater but for the continued increase in the level of non-farm incomes and in the proportion of assessments issued by 30 June 1955.

In 1955-56, income tax receipts from individuals will be affected adversely by the further decline in farm incomes during 1954-55, by reduced collections from arrears and by the full year effect of last year's tax reductions which will cost £8,300,000 more in 1955-56 than in 1954-55. On the other hand, with the increase in the labour force and with increased average earnings, a substantial increase seems likely this year in total wages and salaries and this should result in a considerable increase in pay-as-you-earn instalment collections during 1955-56. Collections in 1955-56 should be assisted also by the increase, which occured in business and professional incomes in 1954-55—the income year upon which assessments for the current year will be based.

After taking this various factors into account, collections from income

tax on individuals are estimated at £390m in 1955-56 or £28,575,000 more than last year.

Income tax collections from companies in any year depend largely on the level of company incomes in the previous year. There is a reason to believe that the considerable increase occurred in 1954-55 in the incomes of companies both in the wholesale and retail trade and in secondary industry generally. Although collections from arrears are expected to be smaller than last year, it is estimated that income tax collections from companies will increase by £15,509,000 in 1955-56.

Pay-roll tax: Pay-roll tax collections are estimated at £46,500,000 in 1955-56 or £5,045,000 more than last year. The increase is based on the expection that in 1955-56 total employment will continue to expand and that, with higher average earnings, a substantial increase will occur in the total wages and salaries bill. The estimate allows for the full year effect in 1955-56 of raising, as from 1 September 1954, the annual exemption for pay-roll tax from £4160 to £6240.

Source: The Australian Accountant vol. 25, no. 6.

China

Taiwan's New Tax Rebates.

In order to promote export sales of industrial products, the Executive Yuan of the Chinese Nationalist Government adopted on July 21 regulations for the rebate of taxes on export products. Under these regulations, manufacturers of exported products who have surrendered to appointed banks the foreign exchange received from the exports may apply for a rebate of the taxes levied on the raw materials used, provided the quality of their products conforms with the demand of international markets. The taxes on which rebates will be made will be limited to the import customs duty, the defense tax on foreign exchange settlements on imports, and the commodity tax. To receive a rebate of the import customs duty, manufacturers must show that the raw materials used in the manufacture of the export products have to be imported, and that the import duty paid on the imported raw materials is equivalent to more than 2,5 per cent of the total production cost of the export product. Measures have been taken in the past to refund the tax raw materials used in producing export products, but they have been disorganized and not well coordinated. The Minister of Finance has stressed that, upon the implementation of the new regulations, there may be temporary decreases in tax revenues, but that the longterm benefits—to be derived from harbour dues, the revenue stamp tax, the business tax, and the income tax levied on products processed from imported raw materials—will more than offset the initial tax losses.

Source: International Financial News Survey, Vol VIII, no. 17.

Columbia

New extractive or manufacturing industries set up within the limits of the Special District of Bogota are to be exempted from payment of the Municipal Licensing Tax (Impuesto de Industria y Comercio) for a period of five years and will pay the tax at half rate for the following two years.

A similar exemption from Municipal Land Tax is to be allowed on new constructions for industrial purposes, and imported machinery for new enterprises will be exempt from the municipal tax on foreign goods for the same period.

Profits that were realized prior to 31st December 1952 but have not been distributed amongst shareholders may now be distributed without causing liabilities for further income and complementary taxes.

Corporacion nacional de servicios publicos — Under the terms of Decree no. 2,956 of 10th November, three important government entities, the Instituto Nacional de Aprovechamiento de Aguas y Fomento Eléctrico, the Instituto Nacional de Fomento Municipal and the Instituto de Credito Territorial have been incorporated in one single entity under the name of the Corporacion Nacional de Servicios Publicos (National Public Services Corporation).

The Corporation will function as a decentralized entity, with its main office in Bogota, and the three former Institutes will continue their present functions as departments, designated the Instituto de Crédito Territorial, the Instituto de Aguas y Fomento Eléctrico and the Instituto de Fomento Municipal. Each will have a manager and technical advisor appointed by the President of the Republic. The Corporation itself will be under the control of the Minister of Development and will have a board of directors consisting of the Minister, a manager, and five other members all of whom, as in the case of the manager, will be appointed by the President.

All existing assets, contracts and obligations of the former Institutes are to be transferred to the Corporation and, in addition to the budget allocations for the Institutes, the Corporation is to receive further revenue (estimated at about 60m. Pesos a year) from the following sources:

a. A new tax of 1 peso per bottle of 720 grammes on all distilled liquors made in Columbia and consumed there from 1st January 1956 onwards.
b. Starting from the fiscal year 1956, all joint stock companies and sleeping partnerships with share equities (but not limited liability partnerships or other forms of association) are exempted from the complementary tax known as patrimony or estate tax. The exemption is conditional, however, on the companies subscribing interest-free bonds issued by the Corporación Nacional de Servicios Publicos for an amount equal to their respective assessment for patrimony tax. As from the fiscal year 1960 both the patrimony tax and/or the bond subscriptions will cease.

Source: *Bank of London and South America Limited, Vol.* 20, *no.* 499,
Bank of London and South America Limited, Vol. 20, *no.* 501.

W. Germany

Steuervorschläge und Berliner, Konjunkturdebatte.

Die Berliner Woche des Bundestages (16. bis 22. Oktober) wurde von der Konjunkturdebatte beherrscht, und in ihrem Rahmen nahm wiederum die Steuerpolitik einen breiten Raum ein. Der Debatte ging eine Regierungserklärung voran, die von Minister Erhard nach bereits bekanntem Konzept abgegeben wurde und die verhältnismässig fablos wirkte, weil sie wenig Neues brachte. Auch eine spätere Stellungnahme von Minister Schäffer enthielt keine Ueberraschungen.

Halten wir aus dem Regierungskonzept die Hauptstichworte zu dem uns interessierenden Steuerthema fest, so sind es die folgenden:

a. Keine allgemeinen Steuersenkungsmasznahmen;
b. Verbesserung der Ehegattenbesteuerung;
c. Erhöhung der Werbungskostenpauschale (beides zusammen mit einem Ausfallvolumen von ca. 700 mio DM);
d. Förderung geeigneter Rationalisierungsmasznahmen auf volkswirtschaftlich wichtigen Einzelgebieten; welche volkswirtschaftlich wichtigen Einzelgebiete hiermit angesprochen werden sollten, ergab sich aus der Erklärung nicht, ebenso wenig, in welcher Form Rationalisierungsmasznahmen gefördert werden sollen:
e. Senkung von Verbrauchsteuern, wenn die Sicherheit besteht, dass die

Senkung dieser Steuern dem Verbraucher voll und dauernd zugute kommt.

Es ist schwer zu entscheiden, ob dieses Angebot der Regierung ein ausschliesszliches ist oder ob aus taktischen Gründen zunächst eine gewisse Zurückhaltung geübt wird, um Raum für ein späteres Entgegenkommen übrig zu behalten.

Bedenkt man die bevorstehenden NATO-Verhandlungen des Bundesfinanzministers in Paris über die Höhe des deutschen Verteidigungsbeitrages einerseits und die nicht unbeträchtlichen Steuerausfälle, die schon bei den oben genannten Vorschlägen über die Milliardengrenze hinausgehen dürften, anderseits, so ist man geneigt, die erste Vermutung für die richtige zu halten. Blickt man aber auf die Forderungen jener politischen Parteien, aus deren Reihen die entscheidenen Regierungsmitglieder selbst stammen, so neigt sich die Waagschale zugunsten der zweiten Vermutung, zur Vermutung eines hinhaltenden Rückzugsgefechts.

Es ist interessant, in der folgenden Gegenüberstellung einmal die Steuervorschläge der grösseren Parteien nebeneinander zu sehen, wobei wir aus Darstellungsgründen Abweichungen nur nebengeordneter Bedeutung unberücksichtigt lassen.

	CDU	FDP	SPD
Senkung des Einkommensteuertarifs	nein	ja	nein
Ausdehnung der degressiven Abschreibungen	ja		
Vermeidung der Scheingewinnbesteuerung	ja		
Erhöhung von Freigrenzen	ja	ja	ja
Wiedereinführung des § 10a EStG (Begünstigung des nicht entnommenen Gewinns)		ja	
Verlängerung der Abschreibungsbegünstigungen entsprechend § 36 IHG für den Kohlenbergbau		ja	
Steuerbegünstigung für freiwillige Investitionsrückstellungen	ja	ja	
Anrechnung ausländischer Steuern auf inländische Steuern	ja		
Überprüfung der Gewerbesteuer	ja		
Senkung bzw. Streichung der Kaffee- Tee- und Zuckersteuern		ja	ja
Streichung von Zwergsteuern		ja	ja

Wenn man zu den Ausfällen, die durch diese Wünsche der Koalitionsparteien verursacht werden würden, noch jene Ausfälle hinzurechnet, die die mit Sicherheit zu erwartende Umgestaltung der Haushaltsbesteuerung und die Gewährung eines Arbeitnehmer-Freibetrages auslösen, so ist kein Zweifel, dass die Zwei-Milliarden-Grenze der Ausfälle mit hoher Fahrt angesteuert wird. Bei der Frage, inwieweit diese Forderungen realisierbar sind, müssen zweifellos noch andere Faktoren mit ins Kalkül gezogen werden. Zwar steigt das Umsatzsteueraufkommen nach wie vor stolz an; es wird damit gerechnet, dass (an Stelle einer Schätzung von 10,2 Mrd DM) die 12-Mrd-Grenze nahezu erreicht wird. Anderseits dürfen aber die Wünsche auf Rentenerhöhung nicht vergessen werden, die nach den gegenwärtig dem Bundestag vorliegenden Anträgen ein Gesamtgewicht von 2,7 Mrd DM haben.

Machen wir unter die Berliner Debatte einschliesslich der Regierungserklärung einen Additionsstrich und besehen wir uns das Ergebnis:

Die Entwicklung in der Berliner Woche hat keine überraschende Wendung genommen. An die Seite einer verhältnismäszig mageren Regierungsofferte sind die Parteiwünsche getreten. Sie machen die Lage nicht übersichtlicher, da sich die vorgetragenen Wünsche nicht alle in eine logisch zwingende Gesamtkonzeption einordnen lassen.

Für den Finanzauschusz, dem alle Anträge zur weiteren Behandlung überwiesen wurden, ergibt sich dadurch eine günstige Situation. Die bunt-

schillernden und in alle Richtungen gehenden Anträge eröffnen ihm die Möglichkeit, auf breitestem Feld zu planen und für die zweite und dritte Lesung abgewogene Vorschläge auf den Gebieten der Einkommensteuer, Körperschaftsteuer, Umsatzsteuer und Gewerbesteuer auszuarbeiten. Der Ausschusz wird kaum auf Zäune mangelnder Bearbeitungszuständigkeit stoszen, wie es früher gelegentlich der Fall war. Möglicherweise ist dies überhaupt die Erklärung für die grosze Zahl der über weite Gebiete gehenden Parteianträge.

So ist fast die Hoffnung berechtigt, auf diesem Wege zu einem neuen Steuerneuordnungsgesetz zu kommen.

Source: *Aktuelle Steuerrundschau*, 1955, *no.* 8.

Great Britain

Double Taxation Agreement with the Federation of Rhodesia and Nyasaland.

The Board of Inland Revenue announce that a double taxation agreement between de United Kingdom and the Federation of Rhodesia and Nyasaland was signed in London on Friday, November 25th, 1955.

The agreement, which requires the approval of the Parliament of the United Kingdom and of the Federal Assembly, provides for the avoidance of double taxation on income and profits, and is expressed to take effect from April 1st, 1953.

The agreement will supersede the existing agreements and arrangements with the constituent territories. It is, in general, similar to the one which has been in force for some years between the United Kingdom and Southern Rhodesia (S.R. and O. 1946, no. 1886).

A draft Order in Council containing the full text will be published shortly by H.M. Stationery Office.

Source: *Taxation, vol LVI, no.* 1469.

Israel

Incentives for Foreign Investors in Israel.

Israel's Law for the Encouragement of Capital Investments, which has recently been amended to increase incentives for foreign investors, now contains the following main provisions: To become eligible for the benefits offered by the law, a project financed by foreign capital (in the form of foreign currency, equipment, or raw materials) must be approved by the Investment Center. The benefits are applicable to investment both in new enterprises and in the expansion of existing approved enterprises, in the latter case without special authorization from the authorities. If investment is in the form of equipment or raw materials, import of such good are not subject to customs duties.

The new tax benefits include several important provisions: (1) An approved corporation will, for five years, pay only the company profit tax of 25 per cent, and will be exempted from the income tax, which hitherto has been 25 per cent. (2) The income tax for a private person who owns an approved enterprise will, for five years, be reduced to 25 per cent; this reduction will be granted by allowing double the ordinary rate of depreciation. (3) Investors in buildings constructed by an approved enterprise for its use will be granted exemptions from urban and rural property taxes for 10 years; and investors in projects for growing industrial crops will be exempt from property tax for a period ranging between 10 and 14 years. (4) Tax refunds may be authorized to foreign companies if the taxes paid in Israel exceed the deductions allowable in the home country for such foreign taxes. (5) The annual amortization allowances have been increased for investments made for scientific research for the development of an approved enterprise. (6) The payment of registration fees by an approved company has been deferred.

Profits (before depreciation) on foreign investment may be transferred annually up to a total of 10 per cent, with the exeption of profits from investment in buildings, for which the allowance is 7 per cent. Principal and interest on investment made in the form of a long-term loan may be withdrawn up to 10 per cent annually, provided that the amount withdrawn does not exceed the amount of actual profits.

Foreign investors who settle in Israel are exempt, for 7 years, from the obligation to surrender foreign currency brought into Israel from abroad. Incomes received from abroad by residents of Israel are not taxed for 7 years from the date the individual becomes a resident.

Source: *International Financial News Survey, Vol VIII, no.* 12.

IV

REVIEWS — COMPTES RENDUS

DR. H. v. WALLIS: *Die Umsatzsteuer* (loose-leaf) — Betriebswirtschaftlicher-Verlag Dr. Th. Gabler, Wiesbaden.

The sales tax is in most countries a very mobile one. Consequently a loose-leaf publication is particularly in its place, especially now as a complete drastic review of the law concerned is imminent and awaiting this review on many points solutions of details are given.

The book gives many practical examples and clears up the often complicated matter of turnover-tax.

JEAN ROGER & JEAN CLAUDE KAUFFMANN: *La détaxation des lieus d'investissement et la réforme des taxes sur le chiffre d'affaires* — au jour en 1er mai 1954 — 73 pp. — Editions Francis Lefebvre, 15 rue Viète, Paris, 17e, 1954, 225 fr.

The act of April 10th 1954 created in France the "taxe sur la valeur ajoutée" (value added tax) which resulted in a deduction from the sales tax to be paid of the sales tax to which the purchase of the investment goods is subjected. Already in 1953 a deduction of 50% was allowed by a decree, but now it is complete.

Messrs. Kauffmann give a survey of the deduction possibilities with many elucidating figures.

PROF. DR. HEINRICH E. FRIEDLANDER: *Konzernrecht (unter Berücksichtigung der amerikanischen Praxis)* 2. neubearbeitete Auflage 216 pp, Verlag Franz Vahlen GmbH, Berlin, Frankfurt a. Main, 1954.

The first edition of this book was published in 1927. It was exhausted in a very short time. Owing to the special circumstances the second edition was not published until 1954. Prof. Friedlander, who has spent many of those 25 years in the U.S.A., has in this new edition expressed many of his experiences gained there. Just as in the first edition German "Konzernrecht" is in the foreground, and of this an extensive summary is given.

A bibliographic survey of important books and articles (international) in this domain has been embodied in the work.

EIDGENOSSISCHE STEUERVERWALTUNG, *Eidg. Wehrsteuer VI Periode*, Heft 256, 23 pp, Eidgenössisches Statistisches Amt, Bern, 1954.

The periodical statistical survey of the "statistiques de la Suisse", now covering the 6th period of "L'impôt pour la défense nationale (1951-52)" in the French and the German language.

G. N. HOHENSEE: *Der Buchnachweis im Umsatzsteuerrecht*, — Verlag Dr. Otto Schmidt, K. G., Köln, 1954. 57 pp.

A bookkeeping is always of great importance for turnover-tax purposes, particularly if one wants to apply for certain favours. The book under review is of essential importance to the German enterpreneur and adviser.

JACOB LA COUR & AXEL WASS: *Skattelovene*, 340 pp., Gyldendalske Boghandel, Nordisk Forlag — København 1952.

A rendering of the texts, export decrees etc. of the Danish income- and property tax according to the situation of 1952/1953.

The alterations of 1953/54 are published in a loose leaflet. It may be advisable to publish the work loose leaf, in order to facilitate the study of the actual text of the law.

DR. ERNST STRACK: *Verzeichnis der Rohstoffe.* Halberzeugnisse Fertigwaren für die Umsatzsteuer, Ausfuhrvergütung mit Preisliste. Ausschlussliste und Vergütungssätzen, 55 pp, 22 sh, Wirtschaftsverlag Dr. Anton Orac, Wien I, Graben 17, 1954.

The calculation of the restitution of the sales tax when exporting commodities in every country levying sales tax according to the system of repeated levy meets with many difficulties. So it is in Austria. The purpose of this booklet is to state the matter clearly and to "link up all the different decrees, which have been published in the "Amtsblatt" in the course of time. For practice a very handy booklet giving the situation on 1/1/1954. It would be recommendable to publish the book loose-leaf.

Beck'sche Textausgaben, Deutsche Steuergesetze, 10. Auflage, loose-leaf.

Steuer Richtlinien und andere Verwaltungsvorschriften zu den Deutschen Steuergesetzen, 2. Auflage, loose-leaf.

Einkommensteuer, Körperschaftsteuer, Lohnsteuer, Notopfer, 15. neubearbeitete Auflage, 1954, 415 pp.

Umsatzsteuergesetz mit Durchführungsbestimmungen, 16. ergänzte Auflage, 1954, 151 pp, Verlag C. H. Beck, München und Berlin.

In these practical booklets the first and second are loose-leaf of which all important texts of the German tax legislation are given. By means of supplements, published in a rapid succession, this work is kept up to date. The "Richtlinien" have been printed in a separate work, the advantage of which is, that one can read the text of the law side by side with it, without continually having to turn the leaves.

DR. JÜRGEN GAEDKE: *Das Recht der Europäischen Gemeinschaft für Kohle und Stahl* — Verlag C. H. Beck, München und Berlin, 356 pp., 1954.

In the German and the French languages the convention of the European Coal and Steel Community is stated with supplements of protocols and transitory provisions. In an annex the rules of order and procedure are found with some important decisions of the High Authority, in the German language.

Omzetbelasting 1954 (sales tax 1954) — Systemen Keesing Amsterdam, 288 pp. (price f 1,—).

The texte of the Sales Tax Act of 1954 in the Netherlands in a pocket edition.

ELLINGER-SCHUG-EHLERS: *Vermögensteuer und Einheitsbewertung* — Verlag Franz Vahlen GmbH, Berlin und Frankfurt a. Main, 1954.

This is the second edition of "Die Veranlagung der Vermögensteuer", now worked out by Schug and Ehlers. This work is adapted to the present situation.

PROF. N. N. ROWINSKI: *Der Staatshaushalt der USSR,* Band II — Verlag Kultur und Fortschritt, Berlin 1953, 358 pp.

This book, translated from the Russian, treats the revenue of the Soviet Russian government and the organization of the fiscal verification. It is meant as a study book. Much attention has been paid to the tax structure (up to 1 July 1950) in which connection the sales tax is most prominent.

Die Umsatzbesteuerung im Ausland, Finanzbericht nr. 8 Teil 1. Frankreich, Niederlande, Italien — Bundesministerium der Finanzen Abf II Volkswirtschaftliche Gruppe, Auslands Archiv, Bonn, Juni 1952, 115 pp.

The intention to explain the differences in the fiscal structure of the various countries in a series of editions, such in connection with the European ideas of integration. This work gives a systematic survey, worked out technically, of the sales tax in France, the Netherlands and Italy, according to the position of June 1952. The sales tax is one of the most important taxes and is developing in such a way that it gradually begins to outrun the income tax — the tax "par excellence". Therefore it is very desirable to get acquainted with the various sales tax systems.

RUDOLF BALMER, DR. MANFRED MIELKE AND DR. O. HOERES: *Steuerterminkalender* 1954, *Reisekosten, Rechtsschutz im Steuerstrafverfahren und Lohnsteuer gesehen vom Arbeitsgeber, Der Steuerzahler* — Copyright by Vereinigte Vertriebe für Wirtschafts- und Steuerliteratur Dr. A. H. Peikert, Freiburg im Breisgau, 1954, 125 pp.

A practical and surveyable book, adapted for practical use. An easy guide for enterpreneurs acquainting them with the general course of affairs and the consequences which some business acts can have.

PROF. DR. GÜNTHER SCHMÖLDERS: *Umbau des Steuersystems?* Gutachten von der Universität Köln — Universität Köln, 1953, 52 pp.

This work of Prof. Schmölders deals with some principles for the fiscal revision which had been planned for 1954. He clearly sets forth the reason why the sales tax developed more and more till it has become the most important tax. He recommends substituting the present repeated-levying by a "taxe sur la valeur ajoutée" (value added tax).

CLAUDE DESCHAMPS: *La Procédure d'établissement et de recouvrement en matière d'impôts sur les revenus,* avocat près la Cour d'Appel de Bruxelles (obtainable from the author), 1953.

The problem is approached from many sides. The chapters deal with respectively: the tax return—the rights of the Administration—the regulation of assessment—the payment—the guarantees of the Treasury—the prosecutions—the prescription—the reclamations—the official examination — the decision by the administration—appeal to the "Cour d'Appel"—the cassation—the reference after the cassation—common determinations —other means—use of language.

It is useful to have the whole before us, not only for those who apply Belgian law, but also for him who is interested in the probems and who wants to set one system beside the other. While in some countries the system of a separate tax judge exists and here and there even the inclination to extend his competence, in Belgium the dispute is treated first of all by officials and after that by the common judge. One cannot form an opinion on such an institution without reviewing the whole.

Beside this it is interesting to take note of the many parts. The space at our disposal only allows us to indicate a few of them. The tax-return takes place on a form drawn up by the Administration. If the regulations are not observed, then the tax return is void and official assessment follows, but the person assessable can not appeal to the voidness. Originally it was assumed that the person assessable is tied down to the tax return in so far that he may not prove that he made a mistake. After many years the jurisprudence changed its opinion in 1949. But—so it is accepted—after the fixing the assessment in conformity with the tax return redress by the person assessable is not possible. The author doubts with reason the justness of this standpoint.

According to the Belgian opinion, tax debt is caused by its being entered in the assessment register—for the taxes for which no assessment register exists this is naturally not the case. The director, who must decide on a reclamation does not act as a judge but as part of the tax administration. He does not judge only the objections which are raised, but the whole assessment and he restores the decisions which he thinks unjust, no matter whether this should be in favour of or to the disadvantage of the fisc.

The Court of Appeal examines the facts, can take new means into account but the Court can not increase the obligations of the claimant.

These few notes will be sufficient.

RANDOLPH PAUL: *Taxation in the United States* — Little, Brown and Company Boston, 1954, 830 pp.

In this book the author gives a picture of the development of the taxation law of the United States from Colonial days to Atomic age, starting from the point, that nowadays every citizen and every thinking taxpayer should know his tax system with all that it involves. For every man, who is directly confronted with the tax laws by their employment, for example the judge, the lawyer, the accountant, the tax expert and similar persons, such a knowledge, as a basis for the acquisition of the required experience, is indispensable.

Paul himself says in the last chapter of his book, in which he gives the motives of the writing of the book, the following: "The history of taxation and fiscal policy is an exciting and sometimes even a violent story. It is not at all the dull, technical affair many people uncritically imagine that it is. The whole fiscal story is inextricably entwined with the remarkable development of the country. It is part of the texture of America. For the future it presents an area of critical decisions which may determine, for better or worse the answer to the question whether the great experiment initiated by our forefathers shall succeed or fail.

The Book contains the following chapters:

1. An early century of American taxation
2. The constitution defeats the people.
3. The people change the constitution.
4. Worldwar I taxation and its aftermath.
5. Taxation in a great depression.
6. Taxation in World War II.
7. From peace to war.
8. From peace to cold war.
9. The judicial process in tax territory.
10. The unfinished task.
11. The story of progressive taxation.
12. Introduction at the end.

We recommend this excellent book highly in the attention of our readers.

PHILIP E. TAYLOR: *The economics of public finance* — revised edition—The Macmillan Company, New York, 1953, 565 pp.

The first object, that the author has had in mind, is to remove the barrier between the ungraduated student of public finance and the rich supply of recent material carrying significant implications for his study.

The second purpose was to justify the inclusion of public finance in an economic curriculum.

The author treats in a clear and understandable manner the following subjects: Public finance in its economic and political setting, fiscal administration, public expenditure, public debts, public revenues, allocation of tax burdens, tax incidence, property taxation, income taxation, sales taxes, death and gift taxes, business taxes, state and local fiscal policy.

A very recommendable book.

A. ZADEL: *De invordering van de plaatselijke belastingen* — 2e druk, N. Samsom N.V., Alphen a/d Rijn, 1954, 252 pp.

When writing this book the author has had the following intention. First to write an instruction-book for students in the municipal finance and secondly to give a survey of the legal provisions enforced by the municipal treasurer and his officers and by local sheriff's officers. Consequently the author treats i.a. the Act of May 22nd 1845, S 22 with respect to the collection of local taxes, the summary execution, the warrant of distress for taxes, the arrests, bankruptcy and the temporary suspension of payment.

The text of the principal Act with relation to the collection of local taxes, is added. In this edition the right of succession is treated more extensively, while also an alphabetical register is added.

We recommend this work in the interest of our readers.

H. A. R. J. WILSON, F. A. C., F. S. A. A.: *Spicer and Pegler's Income Tax and Profits tax* — twenty first edition, H. F. L. (Publishers) Ltd., London 1954, 685 pp.

We received the twenty-first edition of this well-known book, which now contains the provisions of the Finance Act 1954.

The fact, that the twenty-first edition of this book, first published in 1907, appears now proves, that here we have to do with a book, in which many people are interested. And rightly in our opinion, for the author has succeeded in expressing in a clear and understandable manner the by no means easily understandable income tax and profits tax. Such a manual is essential when dealing with tax matters. The author has explained the various rules by examples. The following questions are dealt with:

The principles of the machinery of income tax, the five schedules, business profit and loss account, losses, surtax, claims for return of tax, double taxation relief, isolated profits, settlements, alimony, annuities, penalties, back-duty, and last but not least the profits tax.

The book contains a table of cases, a table of statutes and an alphabetical index.

With pleasure we recommend this excellent book in the attention of our readers.

ALTON W. BAKER & FRANKLIN S. RAWSON: *Sources of Information on personnel Management and labor relations.* — Published by The Bureau of Business Research, College of Commerce and Administration, The Ohio State University Columbus, Ohio, 117 pp.

In order to solve personnel problems in the best possible way a comprehensive list of sources which will aid in locating material dealing with the problem at hand is often indispensable. This bibliography is intended to lend a helping hand in this field.

The references in this bibliography are classified under 18 main headings.

The classification is a combination of both a functional and topical grouping of references.

Section I and II of the bibliography are, respectively, "the General Field of Personnel Management and Labor Relations". These two subjects were placed at the beginning because of their breadth of scope and their importance. The remainder of the main headings and their sub-headings appear in alphabetical order.

The table of contents provides a complete outline of the headings under which the reference sources are arranged, while in addition, and alphabetical index of subjects appears at the end of the book.

CECIL A. NEWPORT AND H. G. S. PLUNKETT: *Income Tax Law and Practice* — twenty-sixth edition—London, Sweet and Maxwell Ltd., 1954, 435 pp.

The twenty-sixth edition of this excellent book is a complete reset and the opportunity has been taken to re-write a number of passages and to introduce various improvements. The text has been broken up into numbered paragraphs. Another innovation is that the examples are now numbered throughout the book.

We can only repeat our recommendation of this book in the attention of our readers.

RECTIFICATION BULLETIN VOL IX No. 5, p. 305-306.

Publications Verlag Dr. Otto Schmidt KG, Köln:

1° BERNARD ZAPF: *Steuerliche Finanzierungshilfen*, 1953.

2° HERRMANN HEUER, *Kommentar zur Einkommensteuer und Körperschaftsteuer* (band I, II, III und IV), begründet von Mrozek, Peters, Kennerknecht, 1950-1956 (Loose-leaf).

3° *Schnellkartei des deutschen Rechts*, Reihe III Steuerrecht, band 10, 11, 12, 12*, 13, 1950-1956 (Loose-leaf).

Probleme des Finanz- und Steuerrechts, Festschrift für Ottmar Bühler — Verlag Dr. Otto Schmidt KG, Köln, 1954, 294 pp.

On the occasion of the 70th birthday of Prof. Dr. O. Bühler a memorial book has been presented to him, the contributions of which have been given by prominent tax experts in Germany. Prof. Bühler, appointed professor in German and international fiscal law at the Faculty of Law of the Cologne University in 1942 has already written many tax publications, as it appears from a survey in this festive volume, and on arriving at the age when he must say farewell to his students, it is likely that, in view of Professor Bühler's vital mind, science will have the benefit of his brilliant works for many years to come.

In connection with international comparative fiscal law this festive volume has a remarkable article by Prof. Dr. jur. Spitaler: Die gegenseitige Annäherung der Steuersysteme der Kulturstaaten (the mutual rapprochement of the tax systems of civilised states). In an extremely clear and surveyable way the development of income tax is set forth, in which connection Prof. Spitaler expresses the thought that a tendency can be noticed in the direction of synthetic income tax with levies in advance at the source with respect to income from labour and property. In a more concise manner the development of indirect taxation (the turnover tax in particular) is demonstrated, while in a table referring to a great number of countries the relation between direct and indirect taxation is set forth, from which Prof. Spitaler draws the conclusion that for the civilised states the normal (correct) relation between direct and indirect taxes seems to be 60 : 40.

Besides the work Spitaler we can draw the reader's attention to the following: Eising — Gemeindeabgabenrecht in der Entwicklung.

Gübbels — Pensionslasten und bedingte Lasten bei der Einheitswertfeststellung des Betriebsvermögens.

Heintges — Einkommensteuerliche Probleme bei der Veräuszerung von unverzinslichen Baudarlehen (§ 7c EStG).

Meilicke — Der Steuerfindungsgeist von Bund und Ländern seit Inkrafttreten des Grundgesetzes — seine verfassungsrechtlichen Grenzen.

Paulick — Der Grundsatz der Gleichmäszigkeit der Besteuerung — sein Inhalt und seine Grenzen.

Peters — Unzulässigkeit einer ländermäszigen Staffelung der Steueranteile des Bundes nach Art 106 Abs. 3 GG.

Thoma — Grundsätzliches zur Frage des Miszbrauchs von Formen und Gestaltungsmöglichkeiten im Steuerrecht.

Wallis — Die Wirtschaftliche Betrachtungsweire im Steuerrecht.

V

LUXEMBOURG

PROJET DE LOI

portant

réforme de l'impôt sur le revenu.

EXPOSÉ DES MOTIFS DE MONSIEUR LE MINISTRE DES FINANCES

Le projet de loi relatif à l'impôt sur le revenu que le Gouvernement soumet à l'approbation des organes législatifs présente une importance capitale pour la vie politique et sociale du Grand-Duché. Les hommes responsables des destinées du pays en ont pleine conscience. Ils se rallient à l'opinion de l'économiste Colin Clark déclarant que „la fiscalité est le problème central de notre époque; qu'il apparaît, à la pratique, que la politique financière et fiscale des pouvoirs ne domine pas seulement le social et l'économique mais l'existence entière de la collectivité".

Depuis des années le pays réclame une réforme fiscale. Inutile de dire que sous ce vocable se cachent des conceptions très variées quant à la nature, à la portée et aux limites de l'oeuvre législative à accomplir. Aussi paraît-il approprié de spécifier d'abord ce que, dans la conception du Gouvernement, la réforme ne saurait être, en tenant compte de la situation financière et économique générale.

En premier lieu la réforme n'entend pas bouleverser la structure fondamentale de nos ressources fiscales. Celles-ci resteront axées sur une certaine prépondérance des impôts directs, avec tous les avantages et tous les inconvénients qu'un tel système comporte. Abstraction faite de ce que cette tendance est conforme à nos conceptions sociales et nous rapproche d'une plus grande justice distributive, il paraît répondre aux impératifs d'une économie exportatrice plus que ne le ferait un régime qui mettrait le poids sur les diverses variétés d'impôts indirects, dont certains frappent directement la production. Cela ne signifie pas que le rapport entre les deux grandes branches d'impôts — les directs et les indirects — doive rester immuable. Un développement excessif des dépenses de consommation dans le cadre de notre communauté nationale pourrait amener le pouvoir législatif à envisager un jour de taxer plus fortement la consommation. Mais ce n'est pas un revirement de cette nature qu'inaugure le présent projet.

Pour la plupart des esprits une réforme fiscale signifie un abaissement de la charge fiscale. Cet abaissement paraît d'ailleurs souhaitable comme tel. Certes, les nouveaux textes que la Chambre aura à voter comporteront des améliorations et des assouplissements quant aux dispositions actuelles relatives à l'impôt sur le revenu. Ils donneront satisfaction à toute une série de revendications et marqueront un progrès par rapport à la législation actuelle. Mais il va de soi que le rendement global de l'impôt sur le revenu doit être d'un ordre de grandeur adapté à l'importance des dépenses budgétaires votées par la Chambre. C'est sur ce rendement que devra tabler le barème définitif à annexer à la loi.

La réforme fiscale visée par le présent projet se limite à une réforme de l'impôt sur le revenu. Mais tant par son rendement que par son inévitable ingérence dans la sphère privée et professionnelle du citoyen, l'impôt sur le revenu est la pièce maîtresse de tout système fiscal. En ce sens notre réforme de l'impôt sur le revenu prend la signification d'une réforme fiscale tout court.

Les raisons qui ont déterminé le choix du système se trouvant à la base du projet ainsi que les solutions pratiques arrêtées dans le texte, font l'objet d'un rapport de Monsieur le Directeur des contributions et d'un commentaire des articles. Aussi le présent exposé des motifs peut-il se borner à justifier le projet de loi dans son ensemble en mettant en relief les points sur lesquels le Gouvernement estime qu'il représente un progrès au regard de la législation existante.

1. Sans vouloir insister sur l'hypothèque psychologique qui grève nécessairement un système fiscal introduit au cours d'une occupation odieuse, il paraît indispensable de doter le pays, dix ans après la Libération, de textes complets, cadrant avec nos institutions et élaborés par des juristes et des fiscalistes luxembourgeois. Les sources de la législation en vigueur qui est d'origine étrangère et qui se trouve figée en passant sous la souveraineté luxembourgeoise, doivent être recherchées dans des textes épars, partiellement abrogés soit chez nous soit dans leur pays d'origine. La terminologie de ce droit fiscal est adaptée au droit public, au droit civil et au droit commercial allemands. Les amendements opérés par le législateur luxembourgeois greffent des conceptions de notre droit sur celles d'un droit étranger. La vue d'ensemble sur une législation aussi disparate est nécessairement limitée à un petit nombre de spécialistes. Aussi le contribuable peut-il avoir le sentiment d'être livré à l'arbitraire de ceux qui sont dans les secrets de la loi.

Doter le pays d'une loi complète, aux textes bien coordonnés, c'est donc faire oeuvre législative utile et constructive. C'est faciliter la connaissance et la recherche des textes légaux et par là les relations entre l'administration et le contribuable.

Le projet que nous présentons est-il comme on l'a exigé, „une loi nationale"?

De l'avis du Gouvernement la loi à venir sera une loi nationale d'abord en ce sens qu'elle sera une loi votée par le Parlement luxembourgeois.

Elle sera encore nationale par le fait de sa concordance avec les dispositions constitutionnelles luxembourgeoises régissant la matière, c'est-à-dire les articles 99 et 36 de la Constitution. Elle mettra fin au système actuel où des „Durchführungsbestimmungen" (dispositions d'exécution), „Verordnungen" (ordonnances), „Richtlinien" (directives) et „Erlasse" (arrêtés) dérogent dans de nombreux cas aux dispositions inscrites dans les lois. Toutes les dispositions de principe figureront dans la loi à venir. Il en sera de même des obligations imposées aux contribuables et aux tiers. Des règlements d'administration publique n'interviendront que pour les mesures d'exécution proprement dites.

Elle sera en outre nationale en ce qu'elle respectera, sauf si des dérogations s'imposent, notre droit civil, notre droit commercial et notre droit pénal.

Loi nationale ne veut pas dire retour au système d'avant-guerre, qui lui, du reste, était calqué sur la législation de plusieurs Etats allemands d'avant 1918.

Le maintien de nombreuses solutions du droit en vigueur n'est pas en opposition avec l'idée de réaliser une loi nationale. Du reste, dans beaucoup de ses aspects, la loi actuellement en vigueur n'est pas spécifiquement allemande; elle renferme de très nombreuses dispositions que l'on retrouve dans toute législation fiscale moderne. Il serait contraire au bon sens de les suppri-

mer pour le seul motif qu'elles figurent également dans la législation que l'occupant nous a imposée.

La législation actuelle concède aux contribuables de grands avantages que notre loi d'avant-guerre ignorait: réductions familiales substantielles, déductions généralisées pour dépenses professionnelles et dépenses spéciales, réduction pour charges extraordinaires, report de pertes, etc. Il est évident que ces avantages ne sauraient être supprimés sous prétexte d'une loi nationale.

2. On a fait entrevoir au pays une certaine simplification de la législation. Cette simplification ne peut évidemment être que relative. A considérer le nombre et le volume des articles de la présente loi, on pourrait s'étonner de ce que les rédacteurs n'eussent pas réussi à condenser dans des textes plus courts et plus limpides toutes les dispositions de la loi fiscale idéale qui hante l'esprit d'aucuns. Mais toute loi fiscale qui veut réaliser l'égalité de la charge pour tous les citoyens d'un pays comporte nécessairement une réglementation détaillée serrant d'aussi près que possible les réalités économiques, qu'il y a lieu de dégager de leur enveloppe comptable.

La vie des entreprises est complexe, alors que les dispositions impératives de notre droit commercial sur l'enregistrement comptable et les bilans sont peu développées ou vagues.

Ceci dit, remarquons toutefois que la loi fiscale que nous présentons est sensiblement plus concentrée que les législations d'autres pays. Ainsi p. ex. les dispositions de la législation de la France et des Etats-Unis représentent des volumes considérables de matière légale, compliquée par les amendements successifs.

De plus grande importance est la question de savoir si la loi comporte des simplifications quant au fond des solutions légales ou quant à la procédure.

Toute lois fiscale comprend, en dehors d'un nombre restreint d'articles, intéressant la grande majorité des contribuables, toute une série d'articles réglementant des situations spéciales.

Les articles à portée générale doivent être peu compliqués. Ceux du projet répondent à cette condition. Le salarié p. ex. dont le revenu imposable n'excède pas 180.000 fr. et qui n'a pas de revenus accessoires d'une certaine importance n'a pas besoin de connaître la loi fiscale. L'administration ne lui demande aucune déclaration. Son employeur retient l'impôt à la source et le verse à l'administration. Lorsque le contribuable veut contrôler si l'impôt retenu n'excède pas l'impôt dû, il n'a qu'à consulter le barème de l'impôt sur les salaires.

Une certaine complication intervient pour le petit ou moyen salarié qui a des frais d'obtention ou des dépenses spéciales dépassant les forfaits incorporés dans les barèmes ou qui peut faire valoir des charges extraordinaires. L'avantage fiscal que la loi lui accorde dans ces cas vaut cependant l'observation de quelques formalités.

Pour les commerçants le système ne peut évidemment pas être aussi simple. Néanmoins le régime que le projet et notamment les arrêtés d'exécution à prendre réserveront aux petits et moyens commerçants sera facilement intelligible. Pour le grand commerce et l'industrie les complications ne seront pas excessives. Il ne faut, en effet, pas perdre de vue que dans les entreprises sérieuses d'une certaine envergure une comptabilité précise est indispensable, abstraction faite de toute exigence fiscale.

Les articles réglementant les situations spéciales sont forcément plus compliqués, alors que les situations qu'ils concernent le sont aussi. Dans ce domaine la simplicité serait souvent synonyme de franchise d'impôt.

En règle générale une loi fiscale doit être suffisamment explicite. Dans le cas contraire elle comporterait trop de lacunes. Une réglementation trop simple des situations spéciales et des dispositions insuffisamment explicites

profiterait en général aux grands contribuables et serait au désavantage des petits et moyens contribuables.

Dans sa présentation le projet est plus simple que la législation actuellement en vigueur. En effet, à la place d'une pléthore de lois, ordonnances, décrets, dispositions d'exécution et directives, il met un code fiscal, comprenant une loi et des arrêtés d'exécution.

Le projet apporte d'autre part un système qui, dans sa structure, sera plus simple que notre régime d'avant-guerre, le système belge ou le système français.

Le projet prévoit en effet un impôt unique, à deux branches, dont une pour les personnes physiques et l'autre pour les collectivités.

Notre législation d'avant-guerre comportait un impôt général sur le revenu et une surtaxe. La législation française, tout en faisant un différence entre les personnes physiques et les personnes morales, prévoit pour les personnes physiques deux impôts: une taxe professionnelle et une taxe progressive. Le système belge comporte à côté de trois impôts cédulaires, deux super-impôts: l'impôt complémentaire et une taxe de crise.

Il y a enfin un effort de simplification qui paraît primordial. C'est celui qui se rapporte aux pratiques administratives, à la vulgarisation des textes législatifs et à l'élaboration de formulaires plus intelligibles au commun des mortels. C'est un point qui ne devra pas être perdu de vue après le vote de la loi.

3. L'incidence économique de la loi fiscale doit particulièrement retenir notre attention. Certes, ce n'est pas avec la seule loi fiscale qu'on peut pratiquer une politique économique active. Celle-ci est conditionnée en premier lieu par les dispositions légales sur la constitution des entreprises, les conditions de l'emploi et la rémunération du travail, les charges sociales et le crédit. D'autre part dans le domaine fiscal ce sont plutôt les impôts et taxes frappant la production et les transactions dont l'incidence sur les prix de revient et sur les ventes est immédiate. L'impôt sur le revenu, impôt personnel dont les taux et les modalités tendent essentiellement à adapter la charge fiscale aux facultés contributives des citoyens et des entreprises, n'agit en somme que sur l'état général du patrimoine ou de l'entreprise qui y est assujettie. Or le fisc ne saurait ignorer les facteurs qui agissent sur cet état général et qui peuvent consolider ou ruiner, développer ou déplacer les facultés contributives. En ce sens, les considérations de justice sociale qui commandent l'impôt sur le revenu doivent être replacées dans le cadre des impératifs économiques, dans l'intérêt du rendement de l'impôt vu à plus longue échéance.

Aussi les lois fiscales modernes se préoccupent-elles de sauvegarder la matière imposable d'une part, de la développer d'autre part.

On ne peut pas dire que la loi allemande n'ait pas été inspirée de saines considérations économiques. Au contraire, les dispositions sur les bilans et la comptabilité, les principes d'évaluation paraissent rationnels. On ne saurait toutefois ignorer les développements monétaires durant et après l'occupation, ni certaines autres évolutions qui placent les entreprises luxembourgeoises dans des situations particulières et qui pourraient risquer de faire prélever par le fisc la substance des patrimoines ou des entreprises.

Aussi le Gouvernement a-t-il inséré au projet de loi un certain nombre de dispositions qui consolident la situation des entreprises ou en améliorent les conditions d'exploitation. On peut citer:

a) L'immunisation des plus-values monétaires inhérentes aux biens de l'immobilisé et découvertes soit en cours d'exploitation, soit en fin d'exploitation.

b) La possibilité de décréter la réévaluation des immobilisations amortissables.

c) L'extension du report de perte de 2 à 3 ans.
d) L'immunisation partielle des bénéfices réalisés dans des établissements stables situés dans des pays avec lesquels le Grand-Duché n'a pas de convention pour éviter la double imposition.
e) La possibilité de prendre des mesures pour favoriser les investissements nouveaux par des avantages en matière d'amortissement.

4. De par sa nature et de par son objectif, une loi réglant l'impôt sur le revenu a une portée sociale considérable. De nos jours l'impôt ne saurait être neutre au regard de la situation personnelle ou familiale du contribuable. En s'efforçant d'adapter les charges fiscales aux facultés contributives, sans tuer pour autant l'esprit d'initiative et sans se complaire dans un stérile égalitarisme, l'impôt sur le revenu réalise une part essentielle de la justice sociale. L'impôt général et unique préconisé par le présent projet réalise au maximum cette égalité des citoyens devant la loi, non pas une égalité arithmétique qui grèverait exagérément les petits et les faibles, mais une égalité comportant une pondération de la contribution à la collectivité suivant les facultés contributives.

La situation et les charges de famille sont évidemment les principaux facteurs dont il importe de tenir compte. A cet égard les dispositions de la loi de l'occupant telle qu'elle a été modifiée pendant les dix dernières années partent de conceptions plus larges que notre législation d'avant—guerre. Il serait contraire au progrès social de revenir en arrière sur ce point. Aussi le projet reprend-il l'essentiel de la réglementation en vigueur tout en éliminant cependant certaines particularités illogiques.

En effet le projet fait abstraction de certaines discriminations plutôt artificielles de la législation de l'occupant et range les contribuables en trois classe I, les contribuables qui n'ont à pourvoir qu'à leur propre entretien, c'est-à-dire les célibataires, ainsi que les veufs et les divorcés sans enfants à charge; classe II, les contribuables qui ont à pourvoir à leur propre entretien et à celui de leur conjoint, c'est-à-dire les personnes mariées sans enfants à charge; classe III, les contribuables qui ont à pourvoir à leur propre entretien et à celui d'enfants à charge, c'est-à-dire les personnes mariées, veufs et divorcés avec enfants à charge.

Il y a toutefois dérogation en ce sens que les contribuables de la classe I passent dans la classe II dès l'âge de 65 ans. Ce n'est du reste pas une véritable dérogation, alors qu'avec l'âge des charges spéciales accroissent au contribuable.

Le barème annexé au projet reflète les mêmes préoccupations sociales, tout en présentant par rapport au barème actuellement en vigueur des améliorations techniques dans la structure.

Dans l'ensemble le rendement du barème se place à un niveau légèrement inférieur à celui actuellement en vigueur. Le pourcentage de dégrèvement est un peu plus prononcé pour les revenus faibles et moyens, ainsi que pour les revenus des ménages de trois enfants et plus. Les taux de l'impôt sur le revenu des collectivités restent pratiquement sans grand changement.

Le minimum exonéré est porté à 27.000 fr. pour le groupe I, à 33.000 fr. pour le groupe II et à 42.500 fr. pour le groupe III. Il résulte de ce barème que pour les groupes II et III un montant dépassant le salaire minimum garanti est dès à présent exonéré de l'impôt sur le revenu si l'on tient compte des forfaits pour frais d'obtention (7.000 fr.) et pour dépenses spéciales (4.000 fr.) que tout salarié peut porter en déduction de son revenu déclaré.

En présence des exigences budgétaires, le Gouvernement ne peut pas, en ce moment, proposer un dégrèvement plus massif. Le barème, en concordance avec les textes législatifs proposés, garantit à l'Etat un revenu fiscal déterminé. Toute modification sensible dans les textes déclenchera nécessairement une adaptation du barème soit vers le haut, soit vers le bas. Toutes les

propositions d'amendement devront être examinées à la lumière de cette réalité.

Pour terminer le présent exposé des motifs, il est indispensable de dire un mot de la réforme des impôts communaux, réforme qui est d'autant plus urgente que les dégrèvements opérés à propos de l'impôt commercial communal (Gewerbesteuer) ont dérangé l'équilibre tant de la balance de certains budgets communaux que de la répartition des revenus fiscaux entre les communes. La Chambre et le Conseil d'Etat sont saisis du projet N° 426 qui a pour objet de créer un impôt communal sur le revenu, tout en renforçant l'autonomie fiscale des communes.

Etant donné l'incidence directe de l'impôt sur le revenu de l'Etat sur l'aménagement de l'impôt communal, il est évident que les solutions définitives qui seront admises par la Chambre à propos du présent projet, pourront amener le Gouvernement à proposer des amendements au projet de l'imposition communale. Il est indiqué de poursuivre l'étude des deux projets d'une façon concomitante.

Luxembourg, le 19 octobre 1955.

Le Ministre des Finances,
Pierre WERNER.

RAPPORT DE MONSIEUR LE DIRECTEUR DE L'ADMINISTRATION DES CONTRIBUTIONS A MONSIEUR LE MINISTRE DES FINANCES

Luxembourg, le 30 juillet 1955

Monsieur le Ministre,

J'ai l'honneur de vous faire tenir sous ce pli, ensemble avec un exposé des motifs, un projet de loi concernant la réforme de l'impôt sur le revenu. Le projet a été élaboré sur la base des instructions que le Gouvernement a données à l'Administration des contributions. En remplaçant en matière d'impôt sur le revenu la législation fiscale allemande, actuellement en vigueur, par une législation fiscale nationale, le projet constitue un pas décisif pour mettre fin à une situation de fait créée par l'occupant et maintenue provisoirement en vigueur après la Libération.

L'occupant a bouleversé tout notre système en matière d'impôts directs de l'Etat et des communes. Par une série d'ordonnances, dont la principale est celle du 25 novembre 1940, il a supprimé la législation fiscale luxembourgeoise pour introduire ses propres lois fiscales.

Les dites ordonnances ont entraîné l'abrogation des lois luxembourgeoises suivantes:

1. la loi du 26 novembre 1927, concernant l'impôt sur le revenu, avec les modifications qu'elle avait subies par les lois des 19 juin 1929, 5 janvier 1938 et 28 mars 1938, ainsi que par la décision de la Chambre des Députés des 1er/2 août 1940;
2. la loi du 11 avril 1921 concernant l'établissement d'une surtaxe sur les revenus, avec les modifications y apportées par les lois des 19 juin 1929 et 28 mars 1938, ainsi que par la susdite décision de la Chambre des Députés des 1er/2 août 1940;
3. la loi du 19 juillet 1904 sur les impositions communales;
4. la loi du 10 janvier 1924 concernant le droit des communes dans le produit de l'impôt sur le revenu et des impositions communales et
5. la loi du 27 novembre 1933 concernant le recouvrement des contributions directes.

Par contre ces mêmes ordonnances ont introduit les lois et ordonnances allemandes dont l'énumération suit:

I. — LOIS ET ORDONNANCES RELATIVES AUX IMPOTS D'ETAT

1. Impôt sur le revenu.

A) *Impôt sur le revenu des personnes physiques.*

a) Einkommensteuergesetz vom 27. Februar 1939;
b) Einkommensteuerdurchführungsverordnung vom 7. Dezember 1941;
c) Verordnung vom 5. Juli 1935 über landwirtschaftliche Buchführung;
d) Verordnung vom 31. Dezember 1936 über die Aufstellung von Durchschnittsätzen für die Ermittlung des Gewinns aus Land- und Forstwirtschaft;
e) Verordnung vom 31. März 1939 über den Steuerabzug von Aufsichtsratsvergütungen;
f) Verordnung vom 26. Januar 1937 über die Bemessung des Nutzungswerts der Wohnung im eigenen Einfamilienhaus;
g) Verordnung vom 6. Februar 1935 über den Steuerabzug von Einkünften bei beschränkt Steuerpflichtigen;
h) Lohnsteuerdurchführungsbestimmungen vom 10. März 1939;
i) Verordnung über die Nichtbesteuerung der Zuschläge für Mehrarbeit und für Sonntags- Feiertags- und Nachtarbeit vom 7. November 1940;
j) Verordnung über die Erhebung der Lohnsteuer von ausländischen Arbeitnehmern vom 25. April 1941;
k) Einheitliche Behandlung von Lohnbezügen beim Steuerabzug vom Arbeitslohn und bei der Sozialversicherung. — Erlass vom 20. September 1941;
l) Gewährung des Landarbeiterfreibetrags. — Erlass vom 9. Juli 1942;
m) Steuerliche Behandlung der Ausgaben des Arbeitgebers für die Zukunftsicherung des Arbeitnehmers. — Erlass vom 22. Dezember 1941.

B) *Impôt sur le revenu des collectivités.*

a) Körperschaftsteuergesetz vom 16. Oktober 1934;
b) Gesetz zur Änderung des Körperschaftsteuergesetzes vom 27. August 1936;
c) Gesetz zur Erhöhung der Körperschaftsteuer für die Jahre 1938 bis 1940 vom 25. Juli 1938;
d) Erste Verordnung zur Durchführung des Körperschaftsteuergesetzes vom 6. Februar 1935;
e) Verordnung zur Verlängerung der Geltungsdauer des Gesetzes zur Erhöhung der Körperschaftsteuer für die Jahre 1938 bis 1940 vom 31. Dezember 1940;
f) Verordnung über die Körperschaftsteuer der Erwerbs- und Wirtschaftsgenossenschaften vom 8. Dezember 1939.

2. Impôt sur la fortune.

a) Vermögensteuergesetz vom 16. Oktober 1934;
b) Durchführungsverordnung zum Vermögensteuergesetz vom 2. Februar 1935.

II. — LOIS ET ORDONNANCES RELATIVES AUX IMPOTS COMMUNAUX

1. Impôt commercial communal.

a) Gewerbesteuergesetz vom 1. Dezember 1936;
b) Einführungsgesetz zu den Realsteuergesetzen vom 1. Dezember 1936;
c) Dritte Verordnung zur Durchführung des Gewerbesteuergesetzes vom 31. Januar 1940;

d) Verordnung zur Vereinfachung der Gewerbebesteuerung vom 19. März 1943;
e) Verordnung über die Erhebung der Gewerbesteuer in vereinfachter Form vom 31. März 1943;
f) Zweite Verordnung über die Erhebung der Gewerbesteuer in vereinfachter Form vom 16. November 1943.

2. Impôt foncier.

a) Grundsteuergesetz vom 1. Dezember 1936;
b) Verordnung zur Durchführung des Grundsteuergesetzes für den ersten Hauptveranlagungszeitraum vom 1. Juli 1937;
c) Zweite Verordnung zur Durchführung des Grundsteuergesetzes für den ersten Hauptveranlagungszeitraum vom 29 März 1938.

III. — LOIS ET ORDONNANCES RELATIVES A L'EXECUTION DES LOIS ET ORDONNANCES FISCALES

a) Bewertungsgesetz vom 16. Oktober 1934;
b) Durchführungsverordnung zum Bewertungsgesetz vom 2. Februar 1935;
c) Abgabenordnung vom 22. Mai 1931;
d) Steueranpassungsgesetz vom 16. Oktober 1934 und die dazu ergangenen Erlasse;
e) Steuersäumnisgesetz vom 24. Dezember 1934 und die dazu ergangenen Erlasse;
f) Verordnung über die Führung eines Wareneingangsbuches vom 20. Juni 1935;
g) Verordnung über die Verbuchung des Warenausgangs vom 20. Juni 1936;
h) Verordnung zur Durchführung des Paragr. 160 Absatz 2 der Abgabenordnung;
i) Verordnung über Vereinfachung bei der Zusendung von Bescheiden im Besteuerungsverfahren vom 11. Dezember 1932;
j) Paragr. 20 der Ersten Steueramnestieverordnung vom 23. August 1931;
k) Verordnung über die Auswertung der Personenstands- und Betriebsaufnahme vom 16. Mai 1935;
l) Verordnung über die Unterwerfung im Strafverfahren gemäss Paragr. 445 der Abgabenordnung vom 1. November 1921;
m) Verordnung zur Vereinfachung des Verfahrens bei Steuernachforderungen vom 28. Juli 1941;
n) Verordnung zur Durchführung der Paragr. 17 bis 19 des Steueranpassungsgesetzes vom 16. Dezember 1941;
c) Erlass betreffend gemeinnützige, mildtätige und kirchliche Zwecke vom 16. Dezember 1941.

Pour parer aux dangers résultant des modifications apportées par l'occupant à la législation luxembourgeoise dans tous ses domaines, le Gouvernement en exil disposa par un arrêté grandducal du 22 avril 1941, pris sur la base des lois d'habilitation des 28 septembre 1938 et 29 août 1939. que les mesures prises par l'occupant seraient abrogées de plein droit au fur et à mesure de la libération du territoire. Dans un second arrêté (13 juillet 1944), pris en vertu des mêmes lois de compétence, le Gouvernement de Londres reprit le même principe, en ajoutant que toutes les mesures prises par l'occupant au cours de la période d'occupation dite „Zivilverwaltung" étaient nulles et de nul effet.

Par application de ces arrêtés, toute la législation fiscale de l'occupant

aurait dû disparaître le jour même de la libération et les mesures prises par les „Finanzämter" allemands auraient dû être considérées comme nulles et de nul effet. Les lois luxembourgeoises énumérées au début du présent exposé auraient par contre automatiquement fait leur réapparition.

Pareille solution, théoriquement exacte et juste en elle-même, n'a pas été possible en présence de la situation de fait créée par plusieurs années d'occupation. Elle aurait entraîné la désorganisation complète des finances de l'Etat et des communes.

Dans ces conditions, l'arrêté grand-ducal du 26 octobre 1944, concernant les impôts, taxes, cotisations et droits, a dérogé aux principes inscrits aux arrêtés pris par le Gouvernement en exil, en décrétant que les mesures prises par l'ennemi avant la date du 10 septembre 1944 et relatives aux impôts directs de l'Etat et aux impôts communaux étaient „tenues pour valables et continueraient à être appliquées à partir du 10 septembre 1944 jusqu'à disposition ultérieure."

La législation fiscale de l'occupant a donc été provisoirement maintenue. Elle ne l'a cependant pas été dans son intégralité. En effet, l'arrêté grand-ducal du 26 octobre 1944 a refusé la validation en ce qui concerne la surtaxe de guerre relative à l'impôt sur le revenu et à l'impôt sur les collectivités et les articles du „Steueranpassungsgesetz" statuant que les lois fiscales sont à interpréter dans un esprit national-socialiste. Le dit arrêté a de plus décrété que les dispositions discriminatoires pour des considérations de race ainsi que les dispositions uniquement dictées rar les nécessités de l'économie de guerre allemande ne seraient plus appliquées.

Pendant les dix dernières années, différentes lois et arrêtés grand-ducaux ont été pris, prévoyant tantôt des mesures transitoires, tantôt des modifications aux dispositions provisoirement maintenues. La loi du 27 novembre 1933, concernant le recouvrement des contributions directes, a été remise en vigueur par arrêté grand-ducal du 29 octobre 1946.

Parmi les mesures législatives et réglementaires qui ont remanié et modifié la législation de l'occupant, il échet de mentionner:

1. la loi du 16 août 1947 portant revision de la charge fiscale des contribuables au titre de l'impôt sur le revenu respectivement de la retenue d'impôt sur les salaires,
2. la loi du 28 mai 1948 tendant au remaniement de certains taux de l'impôt sur le revenu,
3. la loi du 11 avril 1950 portant atténuation de certains impôts directs,
4. la loi du 1er mars 1952 modifiant certaines dispositions relatives aux impôts directs,
5. la loi du 29 août 1953 portant majoration de l'abattement valable en matière d'impôt commercial communal et institution d'un fonds communal d'allocations compensatoires et
6. la loi du 26 avril 1954 portant majoration de l'abattement valable en matière d'impôt commercial communal d'après le bénéfice d'exploitation, introduction d'un abattement valable en matière d'impôt commercial communal d'après le capital d'exploitation et majoration du fonds communal d'allocations compensatoires institué par la loi du 29 août 1953.

Ces différentes lois ont remanié les tarifs d'impôt de l'occupant et apporté des modifications dictées par des considérations d'ordre social et d'équité. En matière d'impôt commercial communal, elles ont introduit des abattements tellement importants qu'en fait la grande majorité des commerçants et artisans échappe aujourd'hui au dit impôt. Mais, dans leurs grandes lignes, les susdites lois ont laissé subsister la législation de l'occupant, de sorte que la situation provisoire, créée par l'arrêté grand-ducal du 26 octobre 1946, dure toujours.

Il est temps de sortir de ce provisoire.

Avant de faire des propositions à ce sujet, il se recommande cependant de comparer la législation actuelle à celle en vigueur avant la guerre. Il échet de traiter séparément les impôts de l'Etat et les impôts communaux.

I. — IMPOTS DE L'ETAT

Quant à la structure des impôts de l'Etat, il n'y a aucune différence fondamentale entre la législation luxembourgeoise et la législation de l'occupant. Tant la loi fiscale d'avant-guerre que la loi fiscale actuellement en vigueur prévoient chacune un impôt général sur le revenu et un impôt sur la fortune.

Si cependant l'on examine de plus près les deux impôts, l'on constate que les deux législations présentent des différences qui sont importantes en matière d'impôt sur le revenu et minimes en matière d'impôt sur la fortune.

1. Impôt général sur le revenu.

Une première divergence résulte du fait que le système en vigueur avant l'invasion ne connaissait qu'un impôt unique, applicable tant aux personnes physiques qu'aux personnes morales, tandis que le système nous imposé par l'occupant est constitué par un impôt à deux branches, l'une concernant les personnes physiques et certaines collectivités assimilées et l'autre relative aux collectivités proprement dites.

Le système allemand de l'impôt à 2 branches (le même système existe du reste en France et aux Pays-Bas) est caractérisé moins par le fait que chacune d'elles a son tarif propre et des conceptions spéciales pour la détermination du revenu imposable, que par celui que, pour certains revenus, il conduit à une double imposition. En effet, le bénéfice des sociétés passibles de l'impôt sur les collectivités est imposé une première fois dans le chef de la société; dans la mesure où il est distribué, il est taxé une seconde fois dans le chef du bénéficiaire. Sous l'empire de notre loi du 26 novembre 1927 cette double charge n'existait pas. Les sociétés étaient imposées, mais par contre les bénéficiaires ne payaient aucun impôt d'Etat du chef des dividendes' revenus d'actions, parts d'intérêts, etc., à eux alloués.

La seconde divergence réside dans la nature des tarifs respectifs. Nos tarifs actuels sont des tarifs non-dédoublés, c'est-à-dire des tarifs uniques. L'ancien tarif luxembourgeois, par contre, était un tarif dédoublé, se composant d'un impôt général et d'une surtaxe.

Abstraction faite des deux principales différences ci-dessus signalées, les deux systèmes traitent différemment toute une série de questions, plus ou moins importantes. Quant à certaines, la législation luxembourgeoise a été plus favorable, sur d'autres la législation de l'occupant est plus libérale.

L'administration n'entend pas comparer les charges fiscales résultant des deux systèmes, bien que ce soit tout justement la charge fiscale actuelle qui est à la base des reproches véhéments contre la législation fiscale en vigueur. En effet, un système fiscal et la charge fiscale sont deux choses nettement différentes. La charge fiscale exprimée par le tarif est exclusivement dictée par les besoins budgétaires. Or, comme en ce moment ces besoins sont très grands et qu'il en sera probablement de même dans les années à venir, la recherche d'un système avec un tarif donnant entière satifaction aux contribuables, constitue un problème aussi insoluble que celui de la quadrature du cercle.

2. Impôt sur la fortune.

Quant au principe, les deux systèmes sont identiques. Pratiquement ils se différencient cependant par le fait que, pour les personnes physiques, la

législation de l'occupant comporte des abattements massifs que notre législation d'avant-guerre ignorait. Le tarif actuel est beaucoup plus élevé que celui de la loi luxembourgeoise. La charge en résultant est cependant atténuée par une évaluation très modérée de certains éléments de fortune.

II. — IMPOTS COMMUNAUX

C'est dans le domaine des impôts communaux que l'occupant a innové de la façon la plus radicale. Aussi le régime actuellement en vigueur n'a-t-il rien de commun avec notre régime d'avant-guerre.

Sous la législation luxembourgeoise les communes percevaient des centimes additionnels greffés sur l'impôt général sur le revenu. Pour le moment, elles prélèvent l'impôt foncier, l'impôt commercial communal et éventuellement l'impôt sur le total des salaires. Il échet encore de relever que l'Etat leur accorde une participation au produit de l'impôt sur le revenu des personnes physiques.

Une observation qui vaut tant pour les impôts de l'Etat que pour les impôts communaux est la suivante: la législation actuellement en vigueur est beaucoup plus volumineuse et, par conséquent, plus précise que ne l'était notre législation d'avant-guerre.

Pour sortir de la situation provisoire actuelle, différentes solutions sont possibles.

Théoriquement l'on pourrait envisager une solution consistant dans le maintien définitif du régime actuel, quitte à y apporter un certain nombre de modifications, comme le législateur luxembourgeois l'a déjà fait par les lois de 1947, 1948, 1950, 1952, 1953 et 1954. Cependant, le Gouvernement et l'administration ne se sont pas attachés à une pareille solution.

De plusieurs côtés l'on a réclamé le rétablissement de notre législation d'avant-guerre. Une proposition de loi tendant à ce but a même été présentée (C. R. Chambre des Députés, sess. ord. 1947-48, Annexe n° 12). L'idée séduit facilement parce que nous avons tous un peu pris l'habitude de considérer les termes „législation fiscale d'avant-guerre" comme synonyme de „charge modérée" et les termes „législation fiscale actuelle" comme l'équivalent de „charge fiscale écrasante". Mais si l'on fait abstraction du tarif qui, dans les conditions données, sera forcément très lourd dans n'importe quel système, il est difficile de dire laquelle des deux législations est la plus avantageuse pour la généralité des contribuables. Si l'on consultait un certain nombre d'entre eux, en les choisissant dans divers groupes et catégories, on recevrait certainement des réponses contradictoires. La législation actuelle aurait ses partisans. Il ne faut, en effet, pas oublier que la législation de l'occupant présente beaucoup de dispositions intéressantes. Pour l'impôt général sur le revenu, on n'a qu'à citer les modérations importantes pour charges familiales, la réduction pour charges extraordinaires, la déductibilité des dépenses dites dépenses spéciales, les facilités en matière d'amortissement, la possibilité du report des pertes des 2 dernières années. Quant à l'impôt sur la fortune, il y a lieu de relever les abattements massifs inconnus autrefois. Il est évident que les intéressés n'accepteraient pas qu'on leur enlevât ces avantages, même en faisant valoir que le sacrifice qu'on leur demande est exigé dans l'intérêt d'un retour à ce que d'aucuns appellent „la légalité". On pourrait objecter qu'il suffirait d'insérer dans notre législation luxembourgeoise les dispositions de faveur actuelles. Théoriquement, ce serait possible. Mais pratiquement la question du rendement de l'impôt ne peut pas être négligée. Une loi fiscale, cumulant les avantages d'avant-guerre avec ceux concédés par l'occupant, serait une bien belle loi pour le contribuable, mais elle serait désastreuse pour l'Etat.

Tant le maintien de la législation actuelle que le retour à la législation

d'avant-guerre étant écartés, la solution qui reste est celle d'une législation nouvelle. C'est pour cette solution que le Gouvernement et l'administration se sont décidés.

De tous les côtés on demande que la législation nouvelle soit plus simple et moins volumineuse que ne l'est la législation actuelle.

La législation que nous proposons sera certainement moins compliquée. A la place des innombrables lois et ordonnances allemandes existant l'une à côté de l'autre, il est envisagé de mettre un code fiscal, où toutes les dispositions qui sont de la compétence du législateur seront coordonnées et rassemblées dans une seule et unique loi.

La législation proposée sera également moins étendue. Elle ne peut cependant pas être condensée dans des textes trop sommaires et cela pour deux motifs:

1. Si pour la solution de certains problèmes le texte est trop bref, de nombreuses questions restent incertaines et doivent être résolues par la jurisprudence. Comme celle-ci, surtout dans un pays de l'étendue du nôtre, ne se formera que très lentement, il y aura une période d'incertitude, préjudiciable tant au contribuable qu'au fisc. Une fois la jurisprudence établie, cet inconvénient disparaîtrait, mais tous ceux qui voudraient se mettre au courant d'une question devraient étudier non seulement la législation, mais également la jurisprudence.

2. Un texte trop bref semble difficilement compartible avec un bon rendement. Il serait nécessairement peu nuancé et par cela même pourrait permettre à de nombreux contribuables d'échapper à l'impôt pour une partie de leurs revenus. L'administration pourrait proposer le texte d'une loi fiscale aussi sommaire que celui de notre loi d'avant 1940, mais, dans ce cas, le Gouvernement et la Chambre des Députés devraient s'attendre à des impositions comme celles d'autrefois. On se rappelle qu'à cette époque une très grande partie des contribuables, autres que les salariés, payaient l'impôt sur des revenus nettement inférieurs à leurs revenus effectifs. Si l'on veut réaliser l'égalité fiscale entre les salariés et les non-salariés, si l'on veut non seulement des dispositions à caractère spectaculaire, mais une loi qui donne un rendement et qui ne laisse pas de fissures permettant à ceux qui savent mieux manoeuvrer que les autres d'échapper à l'impôt, il est indispensable que les textes soient nuancés et qu'ils règlent, en dehors des situations qui se présentent chaque jour, également celles qui sont moins fréquentes. Le texte proposé aura donc forcément une certaine ampleur.

Dans l'ordre d'idées ci-dessus développées, il se recommande de citer tant un passage figurant dans la préface que le ci-devant Ministre des Finances de Belgique, Monsieur Camille Gutt a écrite pour une étude intitulée „Premiers Eléments d'une Comptabilité Nationale de la Belgique" qu'un passage se trouvant dans le rapport élaboré en 1948 par le professeur Coart-Frésart en vue de la réforme fiscale belge.

Monsieur Gutt s'exprime comme suit:

„Quand j'étais au Gouvernement, combien de centaines de fois „ne m'a-t-on pas dit: „Simplifiez vos impôts, commencez par simpli- „fier vos formulaires de déclarations". Je m'y suis efforcé souvent. „Et le peu de simplifications que j'ai pu faire, ont été emportées par „des complications ultérieures. Car il n'est pas possible de faire une „loi simple, de faire un formulaire simple, une fois qu'il est décidé qu'ils „doivent étroitement épouser toutes les formes d'une activité économi- „que compliquée. Or, cette décision est prise, en principe, par toutes „les démocraties. Elle est logique, elle est juste en soi, même si dans ses „conséquences elle justifie parfois l'adage: Summum jus, summa injuria".

Quant au professeur Coart-Frésart, voici ses paroles:

„Quel que soit le système adopté — cédulaire avec impôt de super-

„position ou impôt unique sur le revenu total — toute législation d'im-
„pôt sur le ou les revenus contient nécessairement des textes nombreux.

. . . . . .

„La diversité des produits à considérer, leurs exigences techniques propres, la multiplicité des situations juridiques et économiques écartent „toute possibilité de limiter la loi à un petit nombre de textes simples.

„La complexité est une servitude inévitable de tout régime fiscal à „haut rendement dans un Etat économiquement évolué".

L'administration a exposé au Gouvernement les inconvénients inévitables que comporte chaque modification fondamentale d'un régime fiscal. Le professeur Coart-Frésart dans son rapport susmentionné, les a résumés de la façon suivante:

„destruction d'habitudes, tant de l'administration que des redevables; „annulation de la vitesse acquise résultant de l'expérience; remise en „question de problèmes résolus; naissance de conflits nouveaux; retour „à la phase d'expérimentation avec ses conséquences".

Tant le contribuable que l'administration sont à peine sortis des difficultés de l'après-guerre avec sa législation sur les impôts extraordinaires et la réglementation forcément compliquée du bilan d'ouverture. L'imposition en a souffert et des retards aussi inévitables que regrettables en étaient résultés. Il ne faut pas que la réforme fiscale devienne une nouvelle source de difficultés et de retards. Dans ces conditions, le Gouvernement a été d'accord à voir incorporer dans le projet un grand nombre de dispositions de la loi en vigueur, quitte à les simplifier quelque peu et à les adapter à notre situation spéciale. La circonstance que l'occupant nous les a imposées ne doit jouer aucun rôle, si les dites dispositions sont bonnes en elles-mêmes. Du reste, la plupart d'entre elles sont du domaine fiscal international moderne.

Le Gouvernement s'est également rallié à la proposition de l'administration de procéder par etapes. Une première est celle relative aux impôts communaux. Le projet de loi portant réforme des impôts communaux (Document parlementaire 426, session ordinaire de 1952-1953) a été déposé le 4 novembre 1952. Le présent projet de loi qui s'occupe de l'impôt sur le revenu constitue une nouvelle étape. Une troisième et dernière concernera l'impôt sur la fortune.

Dans le rapport que le soussigné a eu l'honneur de présenter à l'occasion du projet de loi n° 426 susmentionné, il a résumé comme suit la solution proposée pour les impôts communaux:

„Les communes garderont leurs revenus propres. L'Etat, de son „côté, continuera à participer à des dépenses locales déterminées. Ce „sont donc là deux premières catégories de recette des communes. Pour „couvrir l'excédent des dépenses, le projet leur accorde une part dans „le nouveau fonds communal et leur permet de prélever les impôts „communaux suivants:

„1. un impôt communal sur le revenu,
„2. un impôt foncier et
„3. un impôt sur le total des salaires, étant entendu que ce dernier „ne peut être perçu que si certaines conditions sont remplies.

„Comparé à législation actuellement en vigueur, le projet se présente de la façon suivante:

„L'impôt foncier et l'impôt sur le total des salaires sont maintenus, „sauf certains ajustements.

„L'impôt commercial est abrogé.

„La participation des communes au produit tant de l'impôt sur le „revenu des personnes physiques que de l'impôt sur le chiffre d'affaires „est supprimée.

„L'impôt communal sur le revenu est introduit.

„Le fonds communal est massivement renforcé et sa distribution se „fera suivant des critères nouveaux.

„Les communes devront observer une liaison dans la fixation du „taux des impôts communaux."

En matière d'impôt sur le revenu, qui forme l'objet du présent projet, le Gouvernement s'est décidé pour un système prévoyant un impôt unique sur le total des revenus. Ce système est en vigueur en ce moment, tout comme il l'a déjà été avant la guerre. En présence de ce double fait, nous aurions tort de vouloir opter pour le seul autre système possible, c'est-à-dire pour le système cédulaire. Ce dernier prévoit pour chaque catégorie de revenus un impôt spécial, avec éventuellement un impôt de superposition pour l'ensemble des revenus. Une pareille solution serait d'autant moins indiquée que le système cédulaire, qui est forcément plus compliqué que le système de l'impôt général sur le revenu, est en voie de disparition. Après que la France l'a abandonné fin 1948, la Belgique reste un des seuls pays à garder encore les cédules.

Contrairement à notre régime d'avant l'invasion et en conformité avec la situation actuelle, l'impôt sera à 2 branches, l'une pour les personnes physiques et certaines collectivités assimilées, comme par exemple les sociétés de personnes, et l'autre pour les collectivités proprement dites, comprenant notamment les sociétés de capitaux. Une solution prévoyant deux impôts distincts est certainement plus conforme aux réalités économiques qu'une solution ne comportant qu'un impôt unique, les considérations valant pour l'imposition des personnes physiques étant essentiellement différentes de celles qui sont à prendre en considération pour l'imposition des sociétés.

Le système proposé entraîne évidemment une double imposition pour les bénefices distribués. Il est tenu compte de cette charge spéciale dans la fixation du taux maximum applicable aux sociétés. Ce taux est sensiblement inférieur au taux maximum prévu pour les personnes physiques.

Chacun des deux impôts sera un impôt non-dédoublé, comme tel est actuellement le cas. Nous nous écartons de cette façon de notre système d'avant-guerre qui comportait un impôt dédoublé, se composant d'un impôt général et d'une surtaxe.

La solution proposée de l'impôt non dédoublé a le grand avantage d'être beaucoup plus simple que celle de l'impôt dédoublé. On se plaint déjà de ne pas comprendre notre tarif actuel. Qu'adviendrait-il s'il y avait deux tarifs que le contribuable devrait combiner?

Pour le surplus, nous avons choisi dans notre ancienne législation et dans la législation en vigueur les dispositions qui nous paraissent les plus conformes à notre situation actuelle. Nous avons emprunté à des législations étrangères des mesures qui nous semblent intéressantes.

Reste à dire un mot sur les tarifs du projet. En matière d'impôt sur le revenu des personnes physiques le tarif proposé diffère de celui actuellement en vigueur par le fait qu'il ramène le nombre des classes de contribuables de 4 à 3. La solution envisagée fait abstraction de tout critère artificiel, pour s'en tenir uniquement aux charges incombant aux contribuables. Pour ce qui est de l'impôt sur les collectivités, le changement est peu important. Pratiquement l'impôt reste proportionnel. Théoriquement il devient toutefois progresssif, alors que chaque contribuable aura à l'avenir droit aux taux réduits de 20 et de 30 % pour les deux premières tranches de revenu. L'innovation constitue un certain avantage pour les collectivités avec un bénéfice moyen.

Les tarifs nouveaux ne tiennent pas compte des solutions suivantes du susdit projet de loi n° 426: suppression de l'impôt commercial et introduction d'un impôt communal sur le revenu. Il est cependant entendu que si ces réformes sont réalisées, elles auront leurs répercussions sur les 2 tarifs du projet. La suppression de l'impôt commercial ne sera possible que si elle est accompagnée d'une majoration de l'impôt sur le revenu des collectivités.

L'introduction de l'impôt communal sur le revenu, par contre, devra être assortie d'une réduction de l'impôt sur le revenu des personnes physiques perçu par l'Etat.

Ce sont là les grandes lignes du futur impôt général sur le revenu que l'administration propose. De plus amples explications sont fournies dans le commentaire des articles.

Quant à l'impôt sur la fortune, qui formera l'objet d'un projet ultérieur, son maintien est indiqué. En effet, dans le système d'un impôt général sur le revenu, un impôt sur la fortune est le seul moyen pour arriver à une imposition plus prononcée des revenus fondés. En outre, l'impôt sur la fortune a, du point de vue budgétaire, le grand avantage de constituer une recette stable, non influencée par la conjoncture. Finalement, l'existence d'un impôt sur la fortune constitue pour l'administration un précieux moyen de contrôle des déclarations en matière d'impôt sur le revenu.

L'impôt sur la fortune que l'administration proposera ressemblera forcément à celui actuellement en vigueur, lequel n'a du reste jamais donné lieu à de sérieuses réclamations.

Il va sans dire qu'on devra maintenir les abattements massifs actuels qui donnent une forte note sociale à l'impôt sur la fortune. La question se posera même si, pour le contribuable en personne, il n'y a pas lieu de majorer l'abattement actuel. Dans leurs grandes lignes, il se recommandera également de reprendre les règles d'évaluation de l'occupant, qui par leur précision et leurs nuances garantissent la juste perception de l'impôt sur la fortune.

Le taux qui est en vigueur en ce moment (5‰) est assez élevé. L'administration estime qu'il devra être réduit au moins pour une première tranche de la fortune de chaque contribuable, personne physique.

La réduction du taux permettra à l'administration d'arriver à une péréquation de l'impôt, grevant la fortune immobilière et la fortune mobilière. En ce moment la charge fiscale pesant sur la fortune mobilière est plus lourde que celle qui grève la fortune immobilière. La cause en est qu'en matière mobilière les éléments de fortune sont pris en considération pour leur valeur effective, alors qu'en matière immobilière ces mêmes éléments sont évalués sur la base des valeurs unitaires en RM multipliées par dix. Dans l'intérêt de la justice fiscale, il est indispensable de mettre les deux catégories de propriété sur un même pied. Une réduction du taux actuel permettra de le faire, sans imposer une charge nouvelle aux propriétaires d'immeubles.

Le Directeur des Contributions,
Léon SCHAUS.

FRANCE

INSTRUCTION N° 275 B 2/1 DU 10 OCTOBRE 1955 DE LA DIRECTION GÉNÉRALE DES IMPÔTS (CONTRIBUTIONS INDIRECTES) RELATIVE À L'APPLICATION DES TAXES SUR LE CHIFFRE D'AFFAIRES AUX TRANSPORTS INTERNATIONAUX

L'article 32 de la loi de finances pour l'exercice 1955 n° 55-722 du 27 mai 1955 (*J. O. 28 mai* 1955) a modifié le paragraphe I de l'article 40 de la loi du 14 août 1954 concernant la territorialité de l'impôt en matière de transports. Un décret n° 55-1218 du 11 septembre 1955. (*J. O. 17 septembre* 1955) en fixe certaines modalités d'application.

Si, en effet, le transport des marchandises exportées et des voyageurs se rendant à l'étranger ou en provenant était exonéré lorsqu'il était effectué dans un même véhicule, Il n'en était pas de même lorsqu'un transbordement intervenait dans un port maritime ou rhénan. Certes les assujettis à la T.V.A. pouvaient déduire la taxe sur les prestations de services (*art.* 40, § II *de la loi du* 14 *août* 1954) et la taxe locale (*D. n°* 54-1319 *du* 31 *décembre* 1954) ayant grevé les transports de marchandises exportées. Mais, cette mesure n'assurait pas l'égalité de traitement en ce qui concerne les transports de voyageurs et les transports de produits exonérés de la T.V.A. ou exclus de son champ d'application. L'article 32 précité a pour objet de rétablir la parité des charges fiscales pour ces derniers transports dans la mesure où ils comportent un transbordement dans un port maritime ou rhénan.

Il modifie par ailleurs le régime des voyages circulaires touristiques comportant le départ de France et le retour en France des voyageurs.

1° Opérations exonérées.

Ne sont pas considérés comme des services rendus en France, et par suite, échappent à l'application des T.C.A., outre les transports déjà visés l'article 40, § I de la loi du 14 août 1954:

a) *les transports „de voyageurs transbordant dans un port maritime francais à destination ou en provenance de l'étranger".*

L'exonération vaut à la fois pour le transport d'approche jusqu'au port avant transbordement (cas des voyageurs en partance) et pour le transport suivant le transbordement (cas des voyageurs arrivant de l'étranger).

Mais le transport doit être fait vers ou en provenance d'un *port maritime francais*, à l'exclusion des ports fluviaux (rhénans notamment) et de tout autre point de l'intérieur.

La condition d'identité de véhicule, prévue pour les transports directs, n'existe pas au cas particulier. Le transport exonéré peut donc être effectué dans des véhicules différents par un ou plusieurs transporteurs.

Le mode de transport utilisé est également sans influence sur l'exonération (fer, air, route, etc. . .).

On admettra que l'exonération soit acquise non seulement au transport de la personne, mais aussi à celui des bagages qui l'accompagnent.

b) *les transports „de marchandises transbordées sur navires de mer ou rhénans, dans un port francais à destination de l'étranger"*[1]).

Dans ce cas, comme dans le précédent, le mode de transport utilisé importe peu, et aucune condition d'identité de véhicule n'est posée.

Mais l'exonération est limitée aux transports vers un port français, à l'exclusion des transports en provenance d'un port. (*Cf Exonération des transports directs*). Elle est subordonnée au transbordement sur un navire de mer ou rhénan, lequel peut intervenir non seulement dans un port maritime ou rhénan mais aussi, le cas échéant, dans un port fluvial.

2° Cas des voyages circulaires touristiques.

L'article 40, § I, *a*), 2° alinéa de la loi du 14 août 1954 prévoyait l'imposition aux T.C.A. sur la partie du prix correspondant au parcours fait en France des voyages circulaires touristiques comportant le départ de France et le retour en France des voyageurs.

L'article 32 de la loi de finances en supprimant cet alinéa, fait bénéficier les voyages de l'espèce de l'exonération.

3° Justifications exigées des redevables.

Le décret n° 55-1218 du 11 septembre 1955 énonce les justifications que devront présenter les transporteurs pour bénéficier de l'exonération.

a) TRANSPORTS DE MARCHANDISES (ART. 1er DU DÉCRET)

1. Dans le plus grand nombre de cas, l'exonération est immédiate lorsque le transport est fait à destination d'une des personnes suivantes, qui réalisent l'exportation des marchandises:

— commissionnaire en douane agréé;
— compagnie de navigation agréée;
— commerçant autorisé à faire pour autrui des opérations en douane.

Dans ces cas, les justifications que les transporteurs doivent être en mesure de représenter à l'appui de leur comptabilité consistent dans un exemplaire de la lettre de voiture ou du tite de transport annoté par les transporteurs eux-mêmes, sous leur responsabilité, des mentions suivantes:

— la mention „Transport pour exportation";
— nom ou raison sociale, adresse, numéro d'agrément ou d'autorisation du destinataire. Ces dernières indications sont portées, le cas échéant, à la connaissance du transporteur par l'expéditeur. Mais il appartient au transporteur de s'assurer de la qualité du destinataire et de la réalité de l'agrément ou de l'autorisation dont il se prévaut.

Les agréments ou autorisations dont bénéficient les personnes visées plus haut sont délivrées par le ministre des Finances et des Affaires économiques en vertu des articles 87 à 94 du Code des Douanes, dans les conditions fixées par l'arrêté ministériel du 2 décembre 1952 Au cas particulier, ils ne sont valables que sous réserve de l'établissement, par les intéressés, d'une attestation comportant l'engagement, au cas où les marchandises ayant fait l'objet d'un transport exonéré ne seraient pas livrées à l'exportation d'acquitter la taxe sur les prestations de services pour le compte du transporteur.

L'attestation, qui doit mentionner, outre le nom ou la raison sociale de la

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[1]) On rappellera que les dispositions commentées par la présente Instruction ne s'appliquent pas aux transports C.E.C.A.

société, son numéro d'agrément ou d'autorisation, est remise en double exemplaire au Service local de l'Administration dès Contributions indirectes.

L'un des exemplaires est classé au dossier individuel du redevable. Le second lui est restitué, après visa du Service.

2. Dans les cas où la procédure ci-dessus ne peut être employée, l'exonération n'intervient qu'après l'exportation des marchandises transportées.

Pour en bénéficier, le transporteur doit représenter à l'appui de sa comptabilité une attestation qui lui est délivrée nominativement par l'exportateur des marchandises ou toute personne agissant pour le compte de l'exportateur ou de l'acheteur étranger (commissionnaire exportateur, bureau d'achat, etc. . . .). Cette attestation comporte toutes indications permettant d'individualiser les marchandises transportées: nature, quantité, valeur et; le cas échéant, nombre, marques et numéros des colis les renfermant. La douane du port de sortie appose sur l'attestation une mention certifiant que les marchandises ou colis ainsi décrits ont été effectivement embarqués à destination de l'étranger.

Dès qu'il est en possession de cette pièce, le transporteur qui a facturé l'impôt sur le titre de transport, est en droit de bénéficier de l'exonération. Il doit obligatoirement rectifier sa facturation, en annulant le montant de la taxe qui y était porté initialement.

S'il n'a pas encore acquitté l'impôt, l'attestation lui ayant été adressée avant le dépôt de la déclaration afférente au mois où l'affaire a été réalisée, il indique celle-ci en „chiffre d'affaires exonéré". Si l'impôt a été acquitté, l'intéressé réduit à due concurrence son chiffre d'affaires taxable.

Au cas où la taxe facturée par le transporteur aurait été déjà déduite par son client, celui-ci en reverse le montant au Trésor, lors du dépôt de son plus prochain relevé.

b) TRANSPORTS DE VOYAGEURS (ART. 2 DU DÉCRET)

Eu égard aux possibilités de fraude, la justification prévue nécessite obligatoirement l'intervention:

— soit de la compagnie de navigation qui assure le transport maritime antérieur ou postérieur au transport intérieur, ladite compagnie devant elle-même assurer la vente du titre de transport terrestre à son passager. Le transporteur doit produire une commande de titre de transport établie par la Compagnie et attestant, sous la responsabilité de cette dernière, la réalité et la destination ou l'origine du parcours maritime consécutif ou antérieur au parcours intérieur.

— soit d'une agence de voyage. Dans ce cas, le transporteur doit produire un document établi par l'agence et certifiant que les titres de transport intérieur ont été délivrés par celle-ci conjointement avec un titre valable pour un transport effectué hors de France. Le même document doit comporter les références permettant d'identifier ce dernier transport.

Il n'en est autrement que dans le cas des transporteurs vendant des billets uniques valables pour le transport intérieur et le transport maritime ou vendant dans leurs agences à l'étranger des billets valables pour un transport intérieur en France.

C) VOYAGES CIRCULAIRES

Les transporteurs devront tenir un registre spécial de passage comportant pour chaque voyage, l'indication de l'immatriculation du véhicule employé, du parcours effectué, du nombre de voyageurs transportés. Ledit registre sera visé par le Service de la Douane française lors de la sortie et de la rentrée du véhicule. Le cas échéant, le transporteur doit détenir autant de registres spéciaux qu'il possède de véhicules.

Ces registres viendront en justification à l'appui de la comptabilité des intéressés.

4° Régularisation du passé.

La loi du 27 mai 1955 est entrée en vigueur dans les délais normaux de promulgation, son application n'étant pas subordonnée à l'entrée en vigueur du décret d'application.

Dès lors, les redevables intéressés peuvent revendiquer le bénéfice de l'exonération qu'édicte son article 32 pour la période comprise entre la date de son entrée en vigueur et la parution du décret d'application dans le mesure où ils seront susceptibles de produire les justifications prévues audit décret.

Il va de soi qu'en ce qui concerne les transports de marchandises effectués au cours de cette période, seules les dispositions du 2° de l'article 1er du décret n° 55-1218 trouveront à s'appliquer, l'engagement exigé des intermédiaires agréés ou des personnes autorisées ne pouvant avoir un caractère rétroactif.

La régularisation des opérations intervenues pendant la période considérée ne pourra être opérée que par voie de restitution. Les demandes déposées à cet effet seront instruites dans les conditions ordinaires. L'attention des redevables sera appelée sur le fait que, si la taxe a été facturée, les factures délivrées devront *obligatoirement* être rectifiées. Corrélativement, au cas où le client assujetti à la T.V.A. aurait déduit la taxe, il devrait en opérer la réintégration.

Source: B.O.C.I. 1955, I, p. 157.

Prof. EZIO VANONI †

C'est avec un profond regret que la direction du Bureau a appris le décès de Son Excellence Ezio Vanoni, Ministre du Budget d'Italie, et depuis 1954 membre du Conseil de Protection du Bureau.

Les cas sont rares où un savant de grande envergure ait une influence directe considérable sur la pratique de la fiscalité, surtout quand il s'agit de l'élaboration de lois fiscales de première importance. C'est justement ce que M. Vanoni a fait: les grandes réformes-Vanoni sont universellement connues.

D'autres sont plus qualifiés que nous pour exposer l'important travail de M. Vanoni.

Il va sans dire que le Bureau était très content de pouvoir compter un tel savant et un tel praticien parmi les membres de son Conseil de Protection. Maintenant il n'est plus, ce qui constitue une grave perte, non seulement pour la fiscalité italienne, mais pour le monde fiscal en général.

La direction du Bureau tient à exprimer son grand regret du décès de M. Vanoni et sa grande reconnaissance de l'assistance qu'il a bien voulu assurer au Bureau, et elle présente ses sincères condoléances à Madame Vanoni et aux collègues italiens.

THE INCIDENCE OF UNITED KINGDOM TAX ON FOREIGN VISITORS

by

RICHARD MOSS, A.C.A.

1. The question of Residence.

A liability to United Kingdom tax arises:

1. On income derived from United Kingdom sources regardless of the residence of the recipient.
2. On income derived by a United Kingdom resident regardless of the location of its source.

When, therefore, the United Kingdom Revenue wish to assess income derived from a foreign source, they must establish that the recipient is a United Kingdom resident. Put another way, it therefore follows that a visitor to the United Kingdom should take care to see that he does not become resident there against his intention lest he becomes liable to United Kingdom tax on income derived from his home country or from any other country apart from the United Kingdom.

The word "residence" is not defined in the United Kingdom taxing statutes, its meaning having been evolved from a long series of decided cases and Revenue practice. The difficulty of definition is increased by there being two legal terms, namely "residence" simpliciter and "Ordinary residence", while a further complication is introduced by the effect of "domicile", which can be an overriding factor in determining the incidence of tax on foreign income regardless of residence.

To avoid frightening away prospective visitors who might be appalled at the thought of setting foot in the United Kingdom, where the Revenue's net threatens the unwary, the Board of Inland Revenue many years ago issued the following statement for their guidance:

"A visitor who maintains no place of abode in the United

Kingdom and whose visits are not habitual, but occasional only, is not regarded as resident in the United Kingdom, unless he has been in the United Kingdom for a period or periods equal in the whole to six months in the income tax year (beginning 6th April).

If, however, he maintains a place of abode in the United Kingdom available for his use, he is regarded as resident for any year in which he pays a visit of whatever length to the United Kingdom.

Moreover, though he does not maintain a place of abode in the United Kingdom available for his use, and does not stay for six months in any one year, he is regarded as becoming resident if he visits the United Kingdom year after year (so that his visits become in effect part of his habit of life), and the annual visits are for a substantial period or periods of time. The question of residence in any particular case can only be determined by reference to the facts of the case. But it can be said that the Board of Inland Revenue would normally regard an average annual period or periods amounting to three months as "substantial", and the visits as having become "habitual" after four years. And, where the visitor's arrangements indicated from the start that regular visits for substantial periods were to be made, he would be regarded as resident in and from the first year."

This statement (which has no legal significance) sets out the position very fairly, and it is now proposed to examine the law on which it is based and the practical effect of the principles stated.

The opening paragraph centres on section 375 I.T.A. 1952, which reads as follows:

"A person shall not be charged for tax under Schedule D as a person residing in the United Kingdom in respect of profits or gains received in respect of possessions or securities out of the United Kingdom, who is in the United Kingdom for some temporary purpose only and not with any view or intent of establishing his residence therein, and who has not actually resided in the United Kingdom at one time or several times for a period equal in the whole to six months in any year of assessment, but if any such person resides in the United Kingdom for the aforesaid period he shall be so chargeable for that year."

In deciding whether a person has been in the United Kingdom for a period of six months, the time is to be calculated on the

basis of calendar (not lunar) months and any fraction of a day is to count as a whole day of *non-residence*. Thus, where a person arrived in the United Kingdom at 2 p.m. at 2nd June, 1947, and left at 10 a.m. on 2nd December, 1947, the fraction of the day which entered in the calculation was held to count as a whole day of non-residence with resultant benefit to the visitor (Wilkie v. C.I.R.[1]).

As to what constitutes the maintenance of a place of abode is a question of fact to be determined on the circumstances of the case. Ownership of a house in the United Kingdom where the visitor resides is, of course, prima facie evidence of the maintenance of an abode (Lloyd v. Sulley[2]) ,but it has also been held that a house owned by a company controlled by a Belgian and held at his disposal on the occasion of his visits was also a place of abode maintained by the visitor (Loewenstein v. De Salis[3]). It should be observed that where a foreigner maintains a place of abode in the United Kingdom available for his use he will be regarded as resident for any year of assessment in which he sets foot in the country regardless of the duration of his stay.

To sum up the position to this stage, therefore, it will be seen that a person will not be regarded as *resident* in the United Kingdom if, when he visits the country

(a) he does so for a temporary purpose only, without the intent of establishing residence therein, and
(b) his stay does not exceed six months in the fiscal year, and
(c) he does not maintain a place of abode there available for his use.

But even if the visitor succeeds in establishing that he has not become "resident" by reference to the above qualifications, he might still have to establish that he has not become "*ordinarily resident*". Again, there is no statutory definition of ordinary residence, and its interpretation, too, has been the result of a long series of judicial pronouncements.

" 'Ordinarily resident' also seems to me to have no such technical or special meaning .... If it has any definite meaning I should say it means according to the way in which a man's life is usually

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[1]) (1952) 1 ALL E.R. 92 (Ch.D.)
[2]) (1884) 2 T.C. 37
[3]) (1926) 10 T.C. 424

ordered." (Lord Warrington of Clyffe in Levene v. C.I.R.[1]).

The Royal Commission on the Taxation of Profits and Income whose final report has recently been published, has formulated certain proposals which, if introduced into the legislation, would codify the matter. In the meantime, the third paragraph of the Board's statement has to be relied on for guidance as to the circumstances regarded as necessary for the establishment of "ordinary residence". Thus, where a British subject living abroad for health reasons paid yearly visits to the United Kingdom, where he lived in hotels (since he had no fixed address) for the short periods in question so that in fact these visits became the usual order of his life, he was held to be ordinarily resident (Levene v. C.I.R. supra[1]). Similarly, an American was held to be ordinarily resident by virtue of his holding a lease of a shooting-box in Scotland where he spent two months every year (C.I.R. v. Cadwalader[2]). If there is ever likely to be a suggestion that yearly visits to the United Kingdom may result in the visitor becoming "ordinarily resident", it is considered that any challenge by the Revenue could be more easily resisted if it could be shown that a complete fiscal year had elapsed between two of the visits.

Having established whether a visitor continues to be a nonresident or has become "resident" or "ordinarily resident", it only remains to be seen how his liability to United Kingdom tax is affected by the residence status and this is set out in chart form below.

The reader is reminded, however, that apart from the question of residence, the domicile of the visitor can be an overriding factor. This, as will be seen, has an effect independent of residence in determining whether a person shall be chargeable to United Kingdom tax on any foreign income on the basis of the amount thereof. remitted to the United Kingdom or on the basis of the amounts arising whether remitted or not. The question as to whether or not the visitor is a British subject can also, in certain circumstances, have a similar effect.

In this article there have only been discussed the factors which affect the basis on which the liability to tax of a visitor to the United Kingdom will be determined. In the ensuing article entitled

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[1]) (1928) 13 T.C. 486 (H.L.)
[2]) 1904 5 T.C. 101

"The Computation of Liability" some practical examples will be given of the method employed in computing liabilities on the "arising" and "remittance" bases.

Status	*United Kingdom income*	*Foreign income*[1])	*Personal allowances, reliefs, etc.*
(1) Resident and ordinarily resident (whether British subject of not).	Chargeable on all	(a) If domiciled in United Kingdom: Chargeable on all unearned income and profits from businesses managed and controlled in the United Kingdom whether remitted to United Kingdom or not. Profits from businesses not managed and controlled in the United Kingdom and all other earned income will be assessed to the extent remitted. (b) If not domiciled in United Kingdom: Chargeable on al types of income on basis of amounts remitted	All
(2) British subject resident but not ordinarily resident.	Chargeable on all with exception of income derived from certain specified United Kingdom government securities.	Whether domiciled in United Kingdom or not: Chargeable on basis of amounts remitted.	All.
(3) Non-British subject resident but not ordinarily resident.	As in (2) above	If domiciled in United Kingdom As in (1) (a) above. If not domiciled in United Kingdom: As in (1) (b) above.	All.

1) Where this is chargeable Double Taxation Relief may be claimed where applicable.

(4) British subject not resident and not ordinarily resident (including Irish citizens; servants or ex-servants of the Crown and their widows; employees of Missionary Societies and native states; residents of the Isle of Man and the Channel Islands and ex-residents of the U.K. now resident abroad for own or family's healthreasons.)	Chargeable on all with exception of income payable in the United Kingdom derived from: (a) Specified United Kingdom government securities as in (2) above. Securities issued by a foreign state. (c) Securities issued by any body of persons not resident in the United Kingdom and annuities, etc, payable by any Indian or Pakistan institution.	Not chargeable whether domiciled in United Kingdom or not	Proportion thereof which income liable to United Kingdom tax bears to total income from all sources.
(5) Non-British subject not resident and not ordinarily resident	As in (4) above.	As in (4) above.	None, unless covered by a Double Taxation Agreement discussed in the writer's previous article when position is as in (4) above

L'IMPOSITION DES ÉTRANGERS ET DES REVENUS ÉTRANGERS EN YOUGOSLAVIE

par

Dr. MARIJAN HANŽEKOVIĆ

I. La Yougoslavie est un pays à économie socialiste: les instruments de production se trouvent entre les mains de l'état et ce sont les ouvriers qui ont la direction des entreprises. Ces entreprises sont soumises à des impositions spéciales, c'est-à-dire que diverses unités administratives participent, selon des prescriptions particulières, à la répartition de leur revenu. Les étrangers ne peuvent être assujettis au payement de cet impôt.

II. Les entrepreneurs privés ou les professions libérales et les artisans sont assujettis à diverses formes d'impôt sur le revenu. Ainsi, un ressortissant étranger (ou une entreprise étrangère) en Yougoslavie, qui réalise dans le pays un revenu ou bien acquiert un bien meuble ou immeuble est soumis à des impositions selon les prescriptions du décret concernant l'impôt sur le revenu, selon la loi concernant l'impôt sur les revenus provenant de droits d'auteur et selon le décret concernant l'impôt sur les successions et les donations.

III. L'impôt sur le revenu en Yougoslavie revêt plusieurs formes, dépendant du sujet et de l'objet des impositions.

A. L'impôt sur les bénéfices agricoles. Payent l'impôt sur les bénéfices agricoles les propriétaires ou les usufruitiers de terres utilisables pour l'agriculture, que la terre en question soit réellement utilisée pour l'agriculture ou non. Peu importe qu'il s'agisse d'un ressortissant yougoslave ou d'un étranger. Si plusieurs propriétaires ou plusieurs usufruitiers vivent dans un foyer commun,

c'est le foyer qui est le contribuable. Les revenus annuels cadastraux réalisés sur le territoire d'un arrondissement et dcs arrondissements circonvoisins font l'objet d'impositions. Les revenus réalisés par un contribuable dans des arrondissements qui n'ont pas une frontière commune constituent des objets imposables séparés et sont assujettis à l'impôt séparément. Le revenu cadastral est évalué selon la qualité du terrain, échelonnée en huit classes, et selon la culture. Sont exempts de cet impôt:

a) les terrains appartenant aux bâtiments dans lesquels sont logées les délégations diplomatiques et consulaires, sous condition de réciprocité;

b) les terrains et les cours appartenant à des bâtiments jusqu'à concurrence de 500 m^2; mais les propriétés non bâties, dans les villes, sont soumises à l'imposition;

c) les cours des églises si elles ne sont pas exploitées économiquement;

d) les terrains, sur lesquels sont construits des barrages, des canaux et d'autres ouvrages soit contre l'inondation, soit pour l'irrigation ou l'assèchement du terrain.

Des exonérations d'impositions sont accordées, pendant une plus ou moins longue suite d'années, pour des terres sur lesquelles sont nouvellement plantés des vignes, des vergers, des forêts, ou qui, pour leur amélioration, nécessitent un travail ou des frais extraordinaires.

Le revenu cadastral d'une année peut être réduit, si le rendement, pour dommages élémentaires, est tombé au-dessous de 25% du rendement normal.

Le revenu cadastral s'évalue pour plusieurs années; c'est pourquoi il est possible de fixer l'impôt à l'avance.

B. L'impôt sur les occupations indépendantes et la propriété. Cet impôt porte sur tous les revenus de l'activité économique; il est payé aussi bien par les professions libérales, les artisans et les gens d'affaires de toutes sortes que par les étrangers (particuliers ou entreprises) qui exercent en Yougoslavie une activité économique.

Si le mari et la femme perçoivent un revenu chacun de leur côté, ils sont assujettis à l'impôt séparément. La base de l'imposition est le revenu, provenant de n'importe quelle source, sur le terri-

toire d'un arrondissement. Les revenus des divers arrondissements sont assujettis à l'impôt séparément.

Les bénéfices agricoles et les occupations indépendantes et la propriété sont frappés d'un impôt de base à taux proportionnel (6 à 8%) et d'un impôt supplémentaire à taux progressif pouvant aller jusqu'à 75%.

Les réductions d'impôt sur les bénéfices agricoles, les occupations indépendantes et la propriété sont fixées de la façon suivante:

a) Les contribuables, dont le revenu annuel ne dépasse pas 18.000 dinars par membre du foyer et qui ont à charge plus de trois enfants mineurs ou des membres du foyer inaptes au travail, bénéficient d'une réduction de 10% pour chaque enfant mineur et chaque personne inapte au travail. Le montant total de ces réductions ne peut toutefois excéder 50% de l'impôt établi. Les enfants pour lesquels le contribuable perçoit des allocations familiales ne peuvent être pris en considération dans le calcul de ces réductions.

b) Les contribuables dont le revenu annuel ne dépasse pas 30.000 dinars par membre du foyer et qui n'ont pas de membre aptes au travail bénéficient d'une réduction de 20% pour chaque membre inapte au travail, sans que le montant total de ces réductions puisse toutefois excéder 60% de l'impôt établi.

ç) Les contribuables qui ont eu des dépenses considérables pour maladie ou enterrement de membres de leur famille bénéficient d'une réduction égale au montant qu'ils auraient proportionnellement payé sur la somme dépensée pour la cure ou l'enterrement.

Selon les prescriptions qui règlent les impositions sur les revenus provenant des occupations indépendantes et de la fortune (propriété), sont imposés:

a) les revenus provenant d'intérêts touchés par des prêteurs particuliers;

b) les revenus que réalisent les propriétaires de brevets en les utilisant ou en les donnant à bail (licence);

c) les revenus provenant de la sous-location de chambres ou d'appartements;

d) les revenus provenant de la location de biens meubles.

Sont exempts de l'impôt:

a) les revenus provenant de l'assurance sur la vie;

b) les rentes provenant d'assurances;
c) les intérêts et les lots gagnants d'emprunts d' Etat;
d) les intérêts réalisés par l'épargne;
e) les lots gagnants de la Loterie Nationale Yougoslave;
f) les contributions charitables.

C. Impôts spèciaux sur le revenu.

1. Impôt sur l'emploi de l'énergie ouvrière d'autrui.

Il ne faut pas perdre de vue que la Yougoslavie est un pays socialiste. C'est pourquoi il a été introduit un impôt sur l'emploi de l'énergie ouvrière d'autrui. Pour chaque ouvrier qu'ils emploient celui qui est assujetti à l'impôt sur les bénéfices agricoles et celui qui est assujetti à l'impôt sur le revenu provenant d'occupations indépendantes et de la fortune (propriété) payent l'impôt sur l'emploi de l'énergie ouvrière d'autrui au taux proportionnel de 5% par ouvrier-année, en comptant 312 jours par an et 8 heures par jour. Ainsi, un contribuable qui, au cours d'une année, a employé l'énergie ouvrière d'autrui pendant 200 jours, a employé 0,641 ouvrier; ce qui, multiplié par 5, donne un taux de 3,20%. Pour fixer l'impôt sur le revenu, on déduit de la base imposable le montant de l'impôt sur l'emploi de l'énergie ouvrière d'autrui. Sont exempts de l'impôt sur l'emploi de l'énergie ouvrière d'autrui:

a) les personnes invalides ou autres qui, exerçant un métier à l'aide d'un ouvrier, ne peuvent travailler elles-mêmes à cause de leur incapacité physique ou professionnelle. Si ces personnes emploient plus d'un ouvrier, elles payent l'impôt sur l'emploi de l'énergie ouvrière d'autrui d'après le nombre d'ouvriers employés après le premier;

b) les assujettis à l'impôt sur les bénéfices agricoles qui travaillent l'un chez l'autre;

c) les contribuables qui, au cours de l'année n'emploient pas plus d'un ouvrier pour une durée ne dépassant pas deux mois.

2. Impôt sur le revenu des maisons.

La base imposable est le loyer que reçoit le propriétaire. Comme, en Yougoslavie, toutes les maisons de plus de deux grands appartements ou de trois petits sont administrées par un conseil de maison, qui dispose du loyer au profit de l'entretien de l'édifice, et que le propriétaire de ces maisons ne reçoit pas plus de 10% du mon-

tant total du loyer, le propriétaire n'est soumis à l'impôt que pour la quote-part du loyer qu'il reçoit effectivement. Sont exemptes de l'impôt sur le revenu des maisons la quote-part du loyer dont dispose le conseil de maison, puis la valeur à bail des maisons appartenant à des gouvernements étrangers, dans lesquelles sont établies leurs représentations diplomatiques et consulaires, naturellement sous condition de réciprocité. Sont temporairement exempts de l'impôt les revenus provenant des maisons nouvelles pendant les vingt années qui suivent leur construction. Sont aussi exempts de l'impôt, et pour la même durée, les revenus des maisons endommagées à plus de 50% et reconstruites avec la permission de autorités compétentes.

3. Impositions forfaitaires des artisans.

Les artisans qui n'emploient pas d'énergie ouvrière d'autriu payent l'impôt sur une base imposable forfaitaire déterminée par la commission fiscale de l'arrondissement. Cette commission peut fixer une base imposable forfaitaire même pour les artisans qui n'emploient qu'un seul ouvrier ainsi que pour les propriétaires d'entreprises hôtelières privées.

4. Impositions forfaitaires des marchands ambulants et des prêteurs de services.

Les personnes exerçant une activité économique en voyageant de place en place ainsi que les personnes qui prêtent leurs services en utilisant leurs forces physiques (porteurs, décrotteurs, colporteurs, vendeurs de billets de loterie) payent un impôt forfaitaire sur une somme fixe qui dépend du nombre des habitants de l'endroit où s'exerce leur activité.

5. Impôt établi en proportion du chiffre d'affaires.

Les établissements de divertissement ambulants ou les organisateurs de représentations récréatives payent un pourcentage sur leur chiffre d'affaires. Pour l'année 1955, ce pourcentage était de 15%.

6. L'impôt sur le revenu déterminé en proportion des bénéfices bruts doit être payé:

a) sur les revenus des brevets, inventions et perfectionnements techniques selon un taux progressif de 10 à 30% sur des revenus allant jusqu'à 400.000 dinars et ensuite 30% sur des revenus au-dessus de 400.000 dinars;

b) sur les revenus provenant de paris ou autres jeux de hasard, au taux proportionnel de 15%;

c) sur les bénéfices réalisés par la vente de billets de la Loterie Nationale Yougoslave dans un établissement fixe, au taux proportionnel de 10%;

d) sur les bénéfices des agents de la Société Nationale d'Assurances, au taux proportionnel de 10%;

e) sur les bénéfices des ouvriers qui travaillent dans les transports et dans les ports sans engagement fixe, au taux proportionnel de 5%;

1) sur les bénéfices de toutes les personnes qui prêtent leurs services tant aux organismes gouvernementaux, aux institutions d'état, aux organisations économiques et sociales, qu'à des personnes privées, si les bénéficiaires de ces revenus n'ont pas un établissement fixe, à un taux proportionnel de 15%.

7. Impositions sur les revenus occasionnels.

Sont sujets à un impôt tous les revenus occasionnels réalisés par la vente de marchandises acquises dans le but d'être revendues, qu'elles soient vendues dans le même état ou refaites, ou perfectionnées ou façonnées. Les étrangers sont aussi assujettis à cet impôt. Sont exempts de cet impôt les revenus réalisés par la vente de choses d'usage personnel, si, après un certain laps de temps, ces choses sont vendues pour satisfaire à d'autres besoins du contribuable et non pas dans un but lucratif. Les revenus sur lesquels on paye cet impôt ne sont pas ajoutés aux autres revenus sur lesquels on paye l'impôt sur le revenu général; mais ils sont imposés séparément. Le taux de cet impôt est progressif et dépend du revenu réalisé dans chaque cas spécial; il va de 30% sur un revenu de 30.000 dinars à 70% sur des revenus dépassant 1,000.000 de dinars.

8. Impositions des ressortissants yougoslaves employés dans une représentation étrangère.

Des prescriptions spéciales régleront les impositions sur les revenus des ressortissants yougoslaves au service de gouvernements étrangers ou employés par des patrons étrangers sur le territoire yougoslave.

9. Traitements et salaires exemptés d'impôts.

Les traitements et salaires des employés et ouvriers, ayant leur

source dans un contrat de travail et représentant soit des services rendus actuellement soit des services passés (pensions), sont exonérés de l'impôt sur le revenu. Toutefois, les revenus provenant d'un travail supplémentaire ou spécial que réalisent des personnes ayant un emploi fixe, sont passibles d'un impôt sur la base du montant total de ces rémunérations, au taux proportionnel de 5%.

10. Impositions sur des revenus provenant de l'étranger.

Tous les revenus provenant de l'étranger, quelle que soit leur origine, sont soumis à l'impôt s'ils ne sont pas passibles d'un impôt semblable à l'étranger ou s'ils ne sont pas exonérés d'impositions par des prescriptions yougoslaves. En conséquence, puisque le revenu cadastral est imposable dans l'arrondissement où la terre est située, le revenu d'une terre se trouvant à l'étranger ne peut être imposé en Yougoslavie. De même, un ressortissant étranger qui a, en Yougoslavie, un contrat de travail fixe, ne paye pas d'impôt sur son traitement résultant de ce contrat. Le bénéficiaire d'un revenu provenant de l'étranger n'est pas obligé de prouver qu'il a déjà payé un impôt semblable à l'étranger; il suffit que l'autorité fiscale ait connaissance qu'on paye un impôt semblable dans le pays d'où vient le revenu.

11. Evitement de la double imposition.

Les prescriptions fédérales règlent l'évitement de la double imposition, assurent l'application du principe de réciprocité, la protection juridique et l'assistance judiciaire ainsi que l'emploi des mesures rétorsives. Depuis 1945, la Yougoslavie n'a conclu avec aucun pays de convention bilatérale tendant à éviter la double imposition.

IV. L'impôt sur les droits d'auteur.

A cet impôt sont soumis:

a) les revenus provenant de productions artistiques (littéraires, plastiques, musicales, cinématographiques etc.) originales, traduites ou reproduites ainsi que de prix obtenus dans des concours;

b) les revenus provenant d'oeuvres scientifiques et techniques originales, traduites ou reproduites ainsi que de prix obtenus dans de concours;

c) les revenus provenant de l'élaboration de projets généraux ou de prix obtenus dans des concours;

d) les revenus provenant de l'élaboration de toutes sortes d'esquisses ou dessins ainsi que de strips, de mots croisés et autres travaux semblables;

e) les revenus d'expertises et d'oeuvres écrites diverses etc.;

f) tous revenus, quels qu'ils soient, provenant des droits d'auteur;

g) l'impôt sur les droits d'auteur doit être perçu sur les rétributions versées aux artistes qui exécutent des oeuvres d'art musicales, théatrales etc. (reproduction).

L'impôt sur les droits d'auteur est payé par toute personne autochtone ou étrangère, physique ou morale, qui perçoit des revenus passibles de cet impôt.

Les taux de cet impôt sont progressifs:

sur une base imposable *de plus de* *dinars*	*et jusqu'à* *dinars*	on paye un impôt de *dinars*
1.000	50.000	4%
50.000	100.000	2.000+ 6% du montant qui dépasse 50.000
100.000	200.000	5.000+ 7% „ „ „ „ 100.000
200.000	400.000	12.000+ 8% „ „ „ „ 200.000
400.000	600.000	28.000+ 10% „ „ „ „ 400.000
600.000	800.000	48.000+ 12% „ „ „ „ 600.000
800.000	1,000.000	72.000+ 14% „ „ „ „ 800.000
1,000.000		100.000+ 20% „ „ „ „ 1,000.000

V. L'impôt sur les successions et l'impôt sur les donations.

La loi concernant l'impôt sur les successions et l'impôt sur les donations a été promulgué cette année. Pour quelqu'un qui ne connaît pas suffisamment les conditions politiques, économiques et sociales en Yougoslavie, les prescriptions de cette loi seront une surprise par la modération des taux et les nombreuses exonérations. Mais comme la plupart des instruments de production sont socialisés, que la réforme agraire a réduit le maximum de la propriété foncière, pour les agriculteurs, à 10 hectares et, pour les non agriculteurs, à 3 hectares et enfin que tous les édifices de plus de deux grands appartements ou de trois petits sont gérés par un conseil de maison, les autorités compétentes n'ont plus aucune raison de craindre une accumulation de biens par des personnes privées ni un retour des tendances capitalistes. Toute menace de résurrection

des tendances capitalistes définitivement éliminée il n'y a plus lieu d'assujetir les successions et les donations à un impôt très sevère. Aussi un nombre très réduit de choses sont-elles soumises à ces impôts.

Les entreprises, les coopératives, les organisations sociales, les autorités et les instituts publics en sont exemptes; il n'est payé que par les personnes privées, physiques et juridiques (morales).

Les ressortissants yougoslaves et les personnes juridiques (morales) yougoslaves ne payent ni l'impôt sur les successions, ni l'impôt sur les donations des biens mobiliers ou immobiliers, exception faite pour les maisons. Toutes les successions ou donations concernant la propriété foncière sont exemptes du payement de l'impôt. Si la succession ou la donation rend la propriété foncière, que l'héritier ou le donataire possédaient déjà auparavant, supérieure à 10 hectares pour un agriculteur ou à 3 hectares pour un non agriculteur, le surplus est socialisé et ajouté aux terrains nationaux.

Si la succession ou la donation concerne une maison ou une partie de maison, le contribuable ne paye l'impôt que si cet héritage porte le nombre des appartements qu'il possède à plus de deux grands ou de trois petits; et il n'est soumis au payement de l'impôt que sur la partie de la succession ou de la donation au-delà de deux grands appartements ou de trois petits. La succession ou la donation jusqu'à deux grands appartements ou trois petits est exonérée du payement de tout impôt.

La loi fait une distinction intéressante entre l'obligation fiscale et l'obligation de payer l'impôt. L'obligation fiscale naît au moment où les autorités judiciaires remettent à héritier l'arrêt concernant la succession ou au moment où le bénéficiaire reçoit la donation. L'obligation de payer l'impôt intervient seulement quand l'héritier ou le bénéficiaire vend l'héritage ou la donation. Pendant qu'il garde cet héritage ou cette donation, il n'est pas obligé de payer l'impôt. Et même, s'il ne vend qu'une partie de l'héritage ou de la donation, il ne doit payer l'impôt que sur la valeur de cette partie au moment de la vente.

Les ressortissants étrangers et les personnes morales étrangères privées ou publiques sont soumis au payement de l'impôt sur la valeur totale de leurs héritages ou donations, reçus en Yougoslavie, sans aucun abattement; mais si les ressortissants yougoslaves en

pays étranger ne payent pas d'impôt ou de taxes sur les successions ou donations reçues sur le territoire de ce pays étranger, les ressortisants de ce pays seront traités, en Yougoslavie, comme les citoyens yougoslaves: ils ne payeront un impôt que sur les successions ou donations au'delà de deux grands appartements ou de trois petits ou d'un local. Toute autre succession ou donation sera exempte du payement de l'impôt.

Le tarif de ces impôts est le suivant:

Valeur de la succession ou de la donation en dinars jusqu'à	*Ascendants et descendants, époux, frères et soeurs*	*Descendants des frères et des soeurs en Ière ligne*	*Oncles et tantes et leurs descendants en Ière ligne et descendants des frères et des soeurs en IIème ligne*	*Toute autre personne*
100.000	—	1,5 %	3 %	5 %
200.000	1 %	2 %	4 %	6 %
300.000	2 %	3 %	5 %	7 %
400.000	3 %	4 %	6 %	8 %
500.000	4 %	5 %	7 %	9 %
600.000	5 %	6 %	8 %	10 %
700.000	6 %	7 %	9 %	11 %
800.000	7 %	8 %	10 %	12 %
900.000	8 %	9 %	11 %	13 %
1,000.000	9 %	10 %	12 %	14 %
1,100.000	10 %	11 %	13 %	15,5 %
1,200.000	11 %	12 %	14 %	17 %
1,300.000	12 %	13 %	15,5 %	18,5 %
1,400.000	13 %	14 %	17 %	20 %
1,500.000	14 %	15,5 %	18,5 %	21,5 %
1,600.000	15 %	17 %	20 %	23 %
1,700.000	16 %	18,5 %	21,5 %	24,5 %
1,800.000	17,5 %	20 %	23 %	26 %
1,900.000	18,5 %	21,5 %	24,5 %	27,5 %
2,000.000	20 %	23 %	26 %	29 %
au delà de 2,000.000	21,5 %	24,5 %	27,5 %	30 %

VI. Les impôts prélevés sur les habitants ont perdu en Yougoslavie leur importance fiscale. Les trois quarts environ des recettes nationales viennent des impôts payés par les entreprises. Mais les impôts payés par les particuliers ont gardé leur importance politique et économique. Ils sont des instruments au moyen desquels l'état

peut poursuivre sa politique économique et sociale à l'égard de la population ou une partie de celle-ci. Le système fiscal yougoslave est un exemple presque parfait de la fonction économique et sociale que jouent les impôts payés par les citoyens d'un pays socialiste.

II

SURVEYS OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

AUSTRIA *Period from 1st January till 29th February* 1956

No alterations.

BELGIUM *Period from 1st January till 29th February* 1956

Droit d'accise

Arrêté ministériel du 30 janvier 1956 modifiant l'arrêté ministériel du 6 décembre 1934 relatif au régime fiscal des alcools et des boissons spiritueuses, Moniteur Belge 1956, p. 665.

Taxes assimilées au Timbre

Loi du 15 février 1956, modifiant le Code des taxes assimilées au timbre, Moniteur Belge 1956, p. 918.

Matières Divers

Arrêté royal du 30 décembre 1955 portant exonération de la taxe de séjour en faveur des ressortissants irlandais, résident en Belgique, Moniteur Belge 1956, p. 216.

Arrêté royal du 11 février 1956 déterminant la base, le taux et les modalités de la taxe sur les jeux et paris en matière de jeu de roulette avec zéro, Moniteur Belge 1956, p. 1006.

France *Period from 1st January till 29th February* 1956

Impôts directs

Décret no 56-30 du 12 janvier 1956 fixant les modalités d'application des articles 1371, 1371 bis et 1371 ter du Code général des impôts, modifiés par l'article 8 du décret no 55-566 du 20 mai 1955, J.O. 1956, p. 529, 554.

Taxe sur la valeur ajoutée

Décision du 25 février 1956 portant suspension, à titre provisoire, de la perception de la taxe sur la valeur ajoutée sur un certain nombre de produits alimentaires, J.O. 1956, p. 2050.

Taxe spéciale temporaire de compensation

Arrêtés du 30 décembre 1955 relatifs à la taxe spéciale temporaire de compensation, J.O. 1956, p. 83, 530, 1545.

Droits d'accise

Arrêté du 23 janvier 1956 fixant le cours moyen de certaines eaux-de-vie pendant le quatrième trimestre 1955 et les nouveaux taux de la redevance prévue à l'article 384 du Code général des impôts, J.O. 1956, p. 1252.

Droits de douane

Décret no 55-1717 du 30 décembre 1955 portant rétablissement des droits de douane d'importation applicables à certaines catégories de chaussures, J.O. 1956, p. 82.

Décret no 55-1718 du 30 décembre 1955 portant rétablissement des droits de douane d'importation applicables aux graisses et huiles de baleine hydrogénées et instituant un contingent tarifaire pour les produits de l'espèce, J.O. 1956, p. 82.

Décret no 56-2 du 5 janvier 1956 portant suspension provisoire du droit de douane d'importation applicable à la magnétite naturelle destinée au lavage du charbon, J.O. 1956, p. 249.

Décret no 56-3 du 5 janvier 1956 portant suspension provisoire du droit de douane d'importation applicable au cumène, J.O. 1956, p. 249.

Décret no 56-4 du 5 janvier 1956 portant suspension provisoire du droit de douane d'importation applicable aux alginates secs autres qu'en poudre, J.O. 1956, p. 249.

Décret no 56-5 du 5 janvier 1956 portant prorogation des dispositions du décret no 54-1072 du 4 novembre 1954 suspendant les droits de douane d'importation applicables au téréphtalate de diméthyle, J.O. 1956, p. 250.

Annexe au décret no 55-1612 du 9 décembre 1955 (deuxième et troisième rectificatif), J.O. 1956, p. 532, 1545.

Décret no 56-59 du 19 janvier 1956 portant suspension des droits de douane d'importation applicables à certaines matières colorantes organiques homogènes, J.O. 1956, p. 732, 2114.

Décret no 56-80 du 21 janvier 1956 fixant le régime douanier et fiscal des produits pétroliers, J.O. 1956, p. 821.

Décret no 56-102 du 24 janvier 1956 portant suspension provisoire du droit de douane d'importation applicable aux graines et huiles brutes de ricin, J.O. 1956, p. 918.

Décret no 56-103 du 24 janvier 1956 portant réduction provisoire du droit de douane d'importation applicable aux fils de caoutchouc valcanisé nus, J.O. 1956, p. 918.

Arrêté du 28 janvier 1956 portant fixation du contingent et des conditions d'importation en exonération du droit de douanes d'importation des graisses et huiles de baleine, J.O. 1956, p. 1209.

Matières divers

Décret no 56-101 du 24 janvier 1956 portant fixation du taux des taxes à percevoir en 1956 pour alimenter les divers fonds agricoles créés par la législation sur les accidents du travail, J.O. 1956, p. 917.

Arrêté du 23 janvier 1956 portant fixation du taux des frais d'assiette et de perception de la taxe additionnelle au prix des places dans les salles de spectacles cinématographiques, J.O. 1956, p. 981.

Arrêté du 27 janvier 1956 fixant les conditions de versement du prélèvement sur les loyers établi par l'article 1630 du code général des impôts au profit du fonds national d'amélioration de l'habitat, J.O. 1956, p. 1208.

NETHERLANDS *Period from 1st January till 29th February* 1956

Conventions

Decree of January 31, 1956, No 32 with respect to the enforcement of the convention with France for the avoidance of double taxation for income taxes of December 30, 1949, Ned. Stcrt 1956, nr. 25.

Decree of February 20, 1956, No. 77 with respect to the enforcement of the convention with Finland for the avoidance of double taxation for income and property taxes of March 29, 1954, Ned. Stcrt 1956, nr. 39.

W. GERMANY *Period from 1st January till 29th February* 1956

Income tax

Gesetz vom 21. Januar 1956 über die Statistiken der Steuern vom Einkommen, B.G.B.l 1956, p. 34.

Verordnung vom 27. Januar 1956 über die Mitwirkung des Bundes bei der Verwaltung der Einkommensteuer und der Körperschaftsteuer, B.G.Bl. 1956, p. 59.

Bekanntmachung vom 25. Februar 1956 der Neufassung der Kapitalertragsteuer — Durchführungsverordnung (Kap St. DV), B.G.Bl. 1956; p. 95.

Corporation Profits Tax

Verordnung vom 27. Januar 1956 über die Mitwirkung des Bundes bei der Verwaltung der Einkommensteuer und der Körperschaftsteuer, B.G.Bl. 1956, p. 59.

Equalization of Burden Law

Gesetz vom 21. Februar 1956 über die Gewährung von Zulagen zur Unterhaltshilfe nach dem Lastenausgleichsgesetz (Unterhaltshilfezulagen — Gesetz — UZG), B.G.Bl. 1956, p. 85.

Wage tax

Bekanntmachung der Neufassung der Verordnung über den Lohnsteuer-Jahresausgleich und den Notopfer — Jahresausgleich (JAV) vom 6. Januar 1956, B.G.Bl. 1956, p. 2.

War taxes

Bekanntmachung der Neufassung der Verordnung über den Lohnsteuer-Jahresausgleich und den Notopfer - Jahresausgleich vom 6. Januar 1956, B.G.Bl. 1956, p. 2.

Sales Taxes

Siebente Verordnung vom 16. Februar 1956 zur Aenderung der Durchführungsbestimmungen zum Umsatzsteuergesetz, B.G.Bl. 1956, p. 73.

Excise Duties

Dritte Verordnung vom 18 Januar 1956 zur Aenderung der Durchführungsbestimmungen zum Tabaksteuergesetz, B.G.Bl. 1956, p. 18.

Gesetz vom 10. Februar 1956 zur Aenderung des Zundwarensteuergesetzes, B.G.Bl. 1956, p. 70.

Verordnung zur Aenderung der Verordnung über Zollbegünstigungen zur Förderung des Luftverkehrs (Luftfahrtbetriebsstoffe) und der Verordnung zur Durchführung des Mineralölsteuergesetzes, B.G.Bl. 1956, p. 81.

Customs

Achtundvierzigste Verordnung vom 27. Januar 1956 über Zollsatzänderungen (Konjunkturpolitische Zollsenkung), B.G.Bl. 1956, p. 35.

Verordnung vom 14. Februar 1956 zur Aenderung der Verordnung über Zollbegunstigungen zur Förderung des Luftverkehrs (Luftfahrtbetriebsstoffe) und der Verordnung zur Durchführung des Mineralölsteuergesetzes, B.G.Bl. 1956, p. 81.

U.S.A.

The following public laws pertaining to internal revenue matters were enacted during the first session of the Eighty-fourth Congress:

Number of Public Law	Date approved	Number of public law	Date approved
1	Jan. 20, 1955	319	Aug. 9, 1955
9	Mar. 2, 1955	321	Aug. 9, 1955
18	Mar. 30, 1955	323	Aug. 9, 1955
66	June 8, 1955	333	Aug. 9, 1955
74	June 15, 1955	354	Aug. 11, 1955
91	June 21, 1955	355	Aug. 11, 1955
196	Aug. 1, 1955	363	Aug. 11, 1955
216	Aug. 3, 1955	366	Aug. 11, 1955
285	Aug. 9, 1955	367	Aug. 11, 1955
299	Aug. 9, 1955	370	Agu. 11, 1955
303	Aug. 9, 1955	379	Aug. 12, 1955
306	Aug. 9, 1955	383	Aug. 12, 1955
310	Aug. 9, 1955	384	Aug. 12, 1955
317	Aug. 9, 1955	385	Aug. 12, 1955

Following is a list of the 1954 Code sections and the 1939 Code sections which were amended or added by these public laws along with a brief explanation of the amendment; also, explanations of the provisions of the public laws which do not specifically amend a Code section but which do pertain to revenue matters. The statements explaining the Code sections and the amendments are not intended as interpretations but are intended merely to indicate the general nature or effect of the provisions involved.

AMENDMENTS TO THE 1954 CODE

Sections Affected:

11(b), 821(a) (1) (A), 821 (b) (1). *Extension of corporate normal-tax rate* — Public Law 18, I.R.B. 1955-15, 27, amends these sections to extend the corporate normal-tax rate of 30 percent for an additional year to April 1, 1956.

37 (f). *Retirement income tax credit for members of the Armed Forces.* — section 37 provides for an income tax credit with respect to "retirement income". In the case of an individual under 65 years of age, the term "retirement income" includes only income from pensions and annuities under a public retirement system as defined in section 37 (f). Section 37(f) excepts from the definition of a "public retirement system" a fund or system established by the United States for members of the Armed Forces. Public Law 299 amends section 37(f) to remove this exception so that Armed Forces retirees under 65 years of age may be entitled to a retirement income credit with respect ot the pensions they receive under the Armed Forces retirement system. This amendment is applicable to taxable years beginning after December 31, 1954.

152(b) (3). *Exemption for certain dependents in the Republic of the Philippines.* — This section provides that the term "dependent" does not include any individual who is not a citizen of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. However, the section does not exclude from the definition of "dependent" any child of the taxpayer born to him, or legally adopted by him, in the Philippine Islands before July 5, 1946, if the child is a resident of the Philippines and the taxpayer was a member of the United States Armed Forces at the time the child was born or legally adopted. Public Law 333 amends this section to permit the taxpayer to claim as a dependent a child born to him or legally adopted by him prior to January 1, 1956, rather than July 5, 1946. This amendment is effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954. For description of a collateral amendment made by Public Law 333 to the 1939 Code, see the statement made under section 25(b) (3), 1939 Code.

452, 462, 381 (c). *Prepaid income and reserves for estimated expenses.* — Public Law 74, I.R.B. 1955-28, 21, repealed retroactively sections 452 and 462 which permitted taxpayers to adopt certain methods of accounting for prepaid income and estimated expenses. Although taxpayers must pay any increase in tax resulting from the repeal of these sections, the savings provisions of Public Law 74 give them an additonial period of time in which to make payment thereof and grant them relief, under certain circumstances, from payment of interest on such increase. The amendment to section 381 (c) is a technical amendment. It strikes paragraph (7), of such section, relating to carryover of prepaid income in certain corporate acquisitions.

534. *Burden of proof.* — Under the provisions of this section, in deficiency cases before the Tax Court where it is proposed to assert the accumulated earnings tax, the burden of proving that all or any part of an accumulation

of earnings and profits is in excess of reasonable needs of the business is, under certain conditions, on the Secretary or his delegate. This "burden of proof rule" is applicable only to taxable years subject to the provisions of the 1954 Code. Under the 1939 Code, the taxpayer had the burden of proof as to the reasonableness of the accumulation. Public Law 367 amends this section to make the "burden of proof rule" also applicable to taxable years under the 1939 Code, in the case of proceedings tried on the merits after August 11, 1955, where a deficiency is proposed in the surtax on corporations improperly accumulating surplus.

542(a) (2). *Definition of personal holding company.* — This section provides for treatment as "individuals" of certain charitable foundations or trusts in applying the stock ownership test for personal holding companies. Public Law 385 makes section 542(a) (2) inapplicable to long-established charitable foundations meeting certain conditions so that they may retain the tax status under which they have operated for many years. The conditions which must be met are as follows: (1) The foundation must have been organized or created before July 1, 1950; (2) at all times on or after July 1, 1950, through the close of the taxable year such foundation must own all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation; and (3) such foundation must not be denied exemption under section 504 or such trust must not be denied the unlimited charitable deduction under section 681 (c). The amendment to section 542(a) (2) applies only with respect to taxable years. The conditions which must be met are as follows: (1)

1233. *Arbitrage operations in securities.* Under section 1233(b) (2) the holding period of securities acquired for investment purposes is considered as starting on the date of the closing of a short sale of substantially identical securities. Public Law 385 adds a new subsection (f) which provides that when a short sale entered into as part of an arbitrage operation is closed and the rules of subsection (b) (2) become applicable, these rules are to apply first to the substantially identical assets acquired for arbitrage operations held on the day the short sale is made. The rules of subsection (b) (2) are to apply to other substantially identical assets only to the extent that the quantity sold short exceeds the substantially identical assets held for arbitrage operations. The amendment of section 1233 applies only with respect to taxable years ending after August 12, 1955, and only in the case of a short sale of property made by the taxpayer after August 12, 1955.

1304. *Tax treatment of income received from patent infringement suits.* — Public Law 366 adds a new section 1304 to the 1954 Code and renumbers former section 1304 as section 1305. The new section provides that the tax attributable to inclusion in gross income of an amount which represents compensatory damages received or accrued as a result of a judgment for infringement of a United States patent shall not be greater than the aggregate of the increases in taxes which would have resulted if such amount had been included in gross income in equal installments for each month during which the infringement occurred. This amendment is applicable to taxable years ending after August 11, 1955, but only with respect to amounts received or accrued after that date as the result of awards made after that date.

1342. *Recovery of substantial amount held by another under claim of right.* — Public Law 384 adds to the 1954 Code a new section, section 1342, which is complementary to existing section 1341 relating to computation of tax where taxpayer restores to another a substantial amount which he had held under a claim of right. The new section deals with a situation where a taxpayer recovers an item which he had taken as a deduction in a prior year or years because it appeared that another person held an unrestricted

right to such item as a result of a court decision in a patent infringement suit. If the recovered item amounts to $3,000, or more, the new section provides that the tax for the year of recovery shall be the lesser of: (1) the tax computed by including the recovered item in the income of the recovery year; or (2) the tax computed by excluding the recovered item from the recovery year's income and adding to the tax so computed the increase in tax (including interest) of the prior year(s) resulting from the restoration of the deduction(s) claimed in the prior year(s). In order for section 1342 to apply, the recovery must be due to the reversal of the court decision on the ground that such decision was induced by fraud or undue influence. Section 1342 is applicable to taxable years beginning after December 31, 1954.

3401. *Witholding of income tax on remuneration paid to a United States citizen for services performed in a United States possession.* — Public Law 321 amends this section to provide that an employer (other than the United States Government) need not withhold income tax on remuneration paid to a United States citizen for services performed in a possession of the United States if the employer is required by the law of the possession to withhold income tax on the remuneration. Under the law prior to this amendment, the wages of a United States citizen employed in a possession of the United States were, under certain circumstances, reduced by withholding for both the income tax of the possession and the Federal income tax. This amendment is effective on August 9, 1955, the date of enactment of Public Law 321.

3402. *Noncash remuneration to retail commission salesmen.* — Public Law 306 amends this section to provide that an employer shall not be required to withhold and deduct taxes on noncash remuneration paid to a retail salesman where such salesman is ordinarily paid for his services by way of cash commissions. However, the employer must file such information with respect to the noncash remuneration as may be required by regulations. This amendment is applicable to remuneration paid after August 9, 1955, the date of enactment of Public Law 306.

4041 (c), 4061, 4081, 5001 (a) (1), 5001 (a) (3), 5022, 5041 (b), 5051 (a), 5063, 5134 (a) (3) ,5701 (c) (1), 5707 (a), 5707 (b), 6412 (a), 6412 (b), Sec. 497, Rev. Act of 1951. *Extension of certain excise tax rates* — Public Law 18, I.R.B. 1955-15, 27, amends these sections to postpone until April 1, 1956, the excise tax rate deductions on the following taxable articles which were to become effective on April 1, 1955: Automobiles, trucks, motorcycles, etc., and parts and accessories therefor; gasoline; diesel fuel; cigarettes; distilled spirits generally; imported perfumes containing distilled spirits; still wines; sparkling wines; liqueurs and cordials; and fermented malt liquors.

4061 (a) (2). *Repeal of excise tax on motorcycles.* — Public Law 379 amends this section to repeal the excise tax on motorcycles. The repeal is effective as of September 1, 1955. There is no provision for a floor stocks refund of credit with respect to tax paid on inventories of motorcycles held for sale on September 1, 1955 by dealers.

4063 (b), 4112, 4113, 4218 (a) (1), and (b), 4220, 6416 (b) (3) (A), and (B). *Automotive parts or accessories, refrigerator components, radio and television components, and camera lenses.* — Presently, radio and television components and camera lenses are subject to the manufacturers' excise tax if sold to a manufacturer for incorporation in an article not subject to such tax. Automobile parts and accessories and refrigerator components may be sold tax-free if sold to a manufacturer for incorporation in other articles, whether or not such other articles are taxable. However, if such parts or accessories are sold on a tax-paid basis, no credit or refund may be claimed if they

are used in the manufacture of nontaxable articles. Public Law 367 amends these sections to provide a single rule for all these articles so that none of them are taxable if sold to a manufacturer for incorporation in other articles, regardless of whether such other articles are taxable. The amendment to section 6416 (b) (3) (B) provides a credit or refund of any tax paid on these articles to a manufacturer who purchased and used them in the manufacture of, or as component parts of, any article. The amendments take effect on September 1, 1955, except that the amendment to section 6416 (b) (3) (B) applies to articles used by the manufacturer on or after September 1, 1955.

4091, 4092, 6416 (b) (2). *Excise tax on cutting oils.* — Section 4091 imposes a tax of 6 cents a gallon on lubricating oils sold except that the tax is not to exceed 10 percent of the selling price in the case of cutting oils. Public Law 355 amends section 4091 to provide that the tax on cutting oils shall be 3 cents a gallon and on other lubricating oils, 6 cents a gallon. It also transfers the definition of cutting oils from section 4091 to section 4092 and defines them as oils *sold for use* in cutting and machining operations on metals rather than as oils *used* primarily in cutting and machining operations. Public Law 355 adds to section 6416 (b) (2) a new subparagraph (I) providing for a credit or refund not to exceed 3 cents a gallon in the case of lubricating oil on which a tax of 6 cents a gallon was paid if the lubricating oil was used or resold as cutting oil after the effective date of Public Law 355. The amendments made by Public Law 355 take effect on October 1, 1955.

4141, 4143, 6416 (b) (2) (G). *Radio and television receiving sets and component parts.* — Public Law 367 amends section 4141 to provide that the tax on radio and television receiving sets, automobile radio or television receiving sets, phonographs, and combinations of any of these, shall apply only to articles of the entertainment type. The tax on radio and television components and on phonograph records will continue to apply whether or not the articles are of the entertainment type. The special exemption in section 4143 and the special credit or refund in section 6416 (b) (2) (G) for communication, detection, and navigation receivers sold to the United States Government are repealed. The amendment to section 4141 and the repeal of section 4143 take effect on September 1, 1955, The repeal of section 6416 (b) (2) (G) applies only with respect to articles sold by the manufacturer, producer, or importer on or after September 1, 1955.

4216, 4217. *Manufacturers' excise tax on leases of certain automobile utility trailers.*— Under the provisions of these sections, if a manufacturer leases articles subject to a manufacturers' excise tax, such tax applies to the amount of each lease payment on the same basis as if it were a sale. Frequently, the total rental payments will exceed the price at which the manufacturer would sell the article, thus resulting in a greater tax on the leased article than would have been applicable if the article had been sold. Public Law 317 amends these sections to provide that the maximum tax imposed on the leasing of certain automobile trailers, or semitrailers, is to be an amount equal to the applicable tax rate multiplied by the fair market value of the trailer at the time of the initial lease. The taxpayer is given the option to pay the tax in full at the time of the initial lease or to spread the tax payments over the period of the lease payments. The amendments made by Public Law 317 become effective September 1, 1955. For the purpose of applying, this amendment to articles leased before September 1, 1955, the fair market value of an article is considered to be the fair market value as of such date and any lease existing on such date, or if there is none, the first lease entered into after such date is considered an initial lease.

4233 (a). *Athletic events for benefit of United Olympic Association.* —

Public Law 354 amends this section to exempt from the admissions tax admissions to athletic events conducted by the United States Olympic Association, or authorized in advance by such association to be conducted for its benefit, if all the proceeds of the admissions inure exclusively to the benefit of such association. This amendment is effective with respect to amounts paid on or after September 1, 1955, for admissions on or after such date.

7237. *Penalties for narcotics violations.* — Public Law, I, I.R.B. 1955-7, 27, amends this section to correct a technical error in the drafting of the 1954 Code. The amendment makes the penalties provided by this section applicable to offenses described in any subpart of part I of subchapter A of chapter 39, for which no specific penalty is otherwise provided, instead of just to offenses described in subpart C as provided prior to the amendment. The effective date of this amendment is January 20, 1955.

7443 (c). *Salaries of Tax Court Judges.* — Public Law 9 amends this section by increasing the salaries of Tax Court judges from $ 15,000 to $22,500. This amendment took effect on March 1, 1955.

AMENDMENTS TO THE 1939 CODE

25 (b) (3). *Exemption for certain dependents in the Republic of the Philippines.* — This section defines "dependent" for purposes of the income tax exemption for dependents. Among other things, the section provides that the term "dependent" does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States. Public Law 333 amends section 25 (b) (3) so that this provision will not exclude from the definition of "dependent" any child of the taxpayer born to him, or legally adopted by him, in the Phillippine Islands, if the child is a resident of the Philippines and the taxpayer was a member of the United States Armed Forces at the time the child was born or legally adopted. The amendment is effective for all taxable years beginning after December 31, 1946, to which the Internal Revenue Code of 1939 applies. However, the amendment does not open up years with respect to which the statute of limitations has run. For description of a collateral amendment made by Public Law 333 to the 1954 Code, see the statement made under section 152 (b) (3), 1954 Code.

112 (n) (8). *Sale of residence by members of the Armed Forces.* — Under the provisions of section 112(n) gain on the sale of a taxpayer's principal residence is not recognized, if the taxpayer purchases a new residence within one year or constructs a residence within 18 months of the date of sale, except to the extent that the sales price of the old residence exceeds the "purchase price" of the new residence. Both sections 112(n) (8) of the 1939 Code and section 1034(h) of the 1954 Code provide that the running of the replacement period shall be suspended during any period that the taxpayer or his spouse is on extended active duty with the Armed Forces after the date of the sale of the old residence except that in no case shall the replacement period as suspended extend beyond four years after the date of sale of the old residence. Section 112(n) (8), however, suspends the running of this replacement period only until January 1, 1954. Section 1034 (h) of the 1954 Code removes this date limitation altogether and provides in lieu thereof a limitation that the suspension of the running of the replacement period will be applicable only during any period in which individuals are liable for induction in the Armed Forces. The provisions of the 1939 Code are applicable to sales of residences made before January 1, 1954, and those of the 1954 Code are applicable to sales made after December 31, 1953. Public Law 384 amends section 112(n) (8) of the

1939 Code to strike out the January 1, 1954 limitation and replace it with the "induction period" limitation provided in section 1034 (h) of the 1954 Code. This amendment takes effect as of December 31, 1953.

3416 (a) (2). *Claim for* 1954 *floor stocks refund or credit on refrigerators, quick-freeze units, etc.* — Under the provisions of this section, a claim for the floor stocks refund or credit on certain household appliances authorized by the Excise Tax Reduction Act of 1954 must be filed before August 1, 1954. Public Law 303, page 85, this Bulletin, amends this section to extend the time for filing such a claim. The amendment makes October 10, 1955, the last day for filing a claim for refund or credit under this section.

AMENDMENTS TO REVENUE ACTS

Section 223. Revenue Act of 1950. *Use of corporation property by shareholders in case of personal holding companies.* — Section 502(f) of the 1939 Code provides that amounts received by a corporation as compensation for the use of, or the right to use, property of the corporation constitutes personal holding company income if 25 percent or more of the value of its outstanding stock is owned by an individual entitled to use of the property. Section 223 of the Revenue Act of 1950 provides that section 502(f) shall not apply to rents received during taxable years ending after December 31, 1945, and before January 1, 1950, for use by the lessee of property of the corporation on the operation of a bona fide commercial, industrial, of mining enterprise. Public Law 370 amends section 223 of the Revenue Act of 1950 to extend its application to taxable years ending before January 1, 1954, rather than January 1, 1950.

Section 345 Revenue Act of 1951. *Abatement of tax on certain trusts for members of the Armed Forces dying in service.* — Section 345 of the Revenue Act of 1951 provided for the allowance of a deduction with respect to certain income accumulated by a trust for a beneficiary for any period beginning on or after December 7, 1941, and ending before January 1, 1948, if the beneficiary died on or after December 7, 1941, and before January 1, 1948, while in active service as a member of the Armed Forces during such period. The deduction is allowable in the year or years in which the income was accumulated. While section 345 was actually a retroactive provision, it only provided relief for cases where the statutory period of limitation had not expired. Public Law 310 provides that refund or credit of an overpayment resulting from application of section 345 which is barred by statute on the date of its enactment, August 9, 1955, shall nevertheless be allowed if claim therefor is filed within one year after the date of enactment. Public Law 310 is not applicable, however, where refund or credit is prevented by the provisions of section 3760 or 3761 of the 1939 Code or section 7121 or 7122 of the 1954 Code relating to closing agreements and compromises.

MISCELLANEOUS PROVISIONS RELATING TO INTERNAL REVENUE MATTERS

Public Law 66
I.R.B. 1955-27, 32. Continues until the close of June 30, 1956, the suspension of duties and import taxes on metal scrap.

Public Law 91
I.R.B. 1955-29, 24. Continues until the close of June 30, 1958, the suspension of certain import taxes on copper.

Public Law 196. Authorizes the President to enter into an agreement with the President of the Philippines revising the Philippine Trade Act of 1946. The tax provisions of the revised agreement between the United

States and the Philippines are identical to the provisions of the Philippine Trade Act of 1946 except for deletion of the prohibition against imposition of an export tax by either country upon products which it exports to the other.

Public Law 216

I.R.B. 1955-35, 28. Extends the Renegotiation Act of 1951 for two years to December 31, 1956. It directs the Joint Committee on Internal Revenue Taxation to make a study as to the necessity of extending the Act beyond December 31, 1956, and to make a report of the results of such study to the Congress not later than May 31, 1956.

Public Law 285. Amends the International Claims Settlement Act of 1949 to authorize the vesting of blocked assets owned by the Governments of Bulgaria, Hungary, and Rumania, or by any national thereof, in officers or agencies of the United States Government for the purpose of settling certain claims of American nationals against such governments and the subsequent liquidation of the blocked assets. With respect to Federal taxes, the law provides that the vesting of the property shall not render inapplicable any Federal tax; that the administering agency shall pay any tax incident to the property to the same extent, as nearly as is practicable, as though the property had not been vested; that the manner of computing Federal taxes, including the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, shall be in accordance with regulations prescribed by the Secretary of the Treasury; that the statute of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended with respect to the vested property while vested and for six months thereafter; and that the property vested shall not be subject to lien, attachment, or garnishment except as provided in Public Law 285.

Public Law 319. Amends title V of the Agricultural Act of 1949, providing for the Mexican farm labor program, to extend such program for three and one-half years to June 30, 1959. Inder the provisions of section 3121 (b) (1) (C) of the 1954 Code, wages paid for service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, are not subject to FICA taxes.

Public Law 323. Provides for the purchase by the heads of Governmental departments and independent establishments of blanket, position schedule, or other type of surety bands covering civilian officers and employees and military personnel of such departments required by law or administrative ruling to be bonded. This general rule provided by Public Law 323 applicable to the various departments of the Government supersedes the specific authorization given the Secretary in section 7803 (c) of the 1954 Code to purchase blanket or schedule bonds covering employees of the Internal Revenue Service. However, any bond obtained by the Secretary under section 7803 (c), the term of which will expire after the enactment date of Public Law 323, may be continued in force until the expiration of such term. The amendments made by Public Law 323 take effect on January 1, 1956.

Public Law 363. Authorizes and directs the Secretary of the Treasury to allow a refund or credit to a distiller, winemaker, or rectifier in the amount of tax or duty paid on distilled spirits and wines lost or rendered unmarketable by reason of the hurricanes of 1954. A claim for the amount of the tax must be filed with the Secretary within ninety days from the August 11 enactment date. These refund provisions are applicable only with respect to spirits and wines which were in the possession of the person originally paying the tax, the rectifier, or a wholesale or retail liquor dealer at the time they were lost.

Public Law 383. Amends the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act to restore retroactively the exemption of railroad-retirement and railroad unemployment-insurance benefits against attachment or other legal process in connection with the collection of Federal taxes. This exemption had been eliminated when the Internal Revenue Code of 1954 was enacted.

Source: *Internal Revenue Bulletin*, 1955 *no* 36.

MISCELLANEOUS — FAITS DIVERS

Norway

The Norwegian Government is to ask the Storting—Parliament—to approve an increase in the taxes levied on the shipping industry as one of several measures to increase revenue. Initially, and only until the end of the financial year on June 30th, 1956, this increase would take the form of a 2 per cent tax on gross freight earnings.

This tax, it is estimated, would yield 25 million crowns (about £1.25 million) over a sixmonth period. From July 1st, 1956, the Government proposes that shipping companies should no longer be exempted from a surtax levied by the municipal authorities. For many years shipping has been the only industry exempted from this tax.

Other new measures proposed by the Government include a tax to be paid each time a motor vehicle is registered on change of ownership. This would replace an existing 10 per cent turnover tax which is supposed to be paid each time a used vehicle changes hands, but which in the past has largely been evaded. The Government also intends to raise postal and telephone charges.

Source: *Taxation, Vol LVI, no.* 1467.

Singapore

No new taxes were announced in the Federation of Malaya's surplus Budget-proposals put before the Assembly in Kuala Lumpur last week.

The Financial Secretary—Mr. C. J. Thomas—stated that the Alliance Government would not consent to Singapore's proposals for an increase in income tax until it had had time to review the whole field of fiscal policy. At the same time, he added, the Government wanted first to make a start on some of the measures of improvement promised to the electorate. A supplementary Budget for development giving effect to the World Bank proposals was to be expected next April.

Mr. Thomas said that as a result of increased revenue, due to better rubber prices, there would be a surplus this year of $ M42.4 million— about £5 million— instead of the estimated deficit of $ M148 million. Next year, however, the deficit would be an estimated $ M49.8 million. This was not a happy position for a newly-elected Government, he added.

The Government faced a difficult task, but basically the economic and financial position was sound. Revenue figures were based on the assumption that there would be no recession in prices or the volume of trade. The rubber export duty this year would bring in $ M162. 6 million, against an estimated $ M114 million. Next year $ M165 million was being budgeted for.

Income tax next year would have an expected yield of $ M145 million— $ M20 million more than this year. Mr. Thomas added that the income tax law was being amended from January 1st to encourage the development of mines and plantations. The new provisions would, under certain conditions, allow abortive expenditure on mining operations to be deducted. In the case of estates, the cost of clearing land for planting and the cost of new planting would be permitted to be written off over a period of ten years.

Source: *Taxation, Vol LVI, no.* 1470.

Great Britain

A New Profits Tax?

Under this heading the following note appeared in the British tax journal "Taxation". Though it reviews the ideas of Mr. Butler, and it may be possible that the present Chancellor of the Exchequer, Mr MacMillan will have other ideas as to new legislation to be enacted with the next budget, its contents seem to be of sufficient interest to reproduce the note in this Bulletin.

In a recent Finance Bill debate, the Chancellor of the Exchequer indicated that he wanted the House of Commons to have a debate on the report of Royal Commission on Taxation at an early date. The Parliamentary correspondent of the Manchester Guardian makes this comment:

'Not only did he praise the work of the Royal Commission, but he did an unusual thing. He said the House ought to have an opportunity of debating the Royal Commission's report. True, he disclaimed that he was committing the Leader of the House, who is the arbiter of the allocation of Parliamentary time, but no Leader of the House can ignore such a firmly expressed opinion of the Chancellor of the Exchequer. Mr. Crookshank is committed all right.'

In his Budget speech some weeks earlier, the Chancellor indicated that he was not prepared to adopt the Royal Commission's recommendation that the taxes on distributed and undistributed profits respectively should be superseded by a single corporation tax. At that time he said this reform would have the effect of 'favouring the companies which distribute the higher proportion of their profits'. Now, however, Mr. Butler has accepted the superiority of a fiat corporation tax as a permanent fiscal instrument. He have the House of Commons figures which showed that the flat tax need not be a forbiddingly high one to yield the revenue that the double profits tax has been yielding. To replace the profits taxes as they stood before the recent Budget, it would have to be about 8 per cent, which with income tax at the present standard rate would make a total impost on companies and other corporate profits of slightly more than 50 per cent. Now that the distributed profits tax has been raised from 22½% per cent to 27½ per cent it would have to be slightly more.

The possibility of a sales tax on most goods bought in the shops — which would replace purchase tax - has been widely discussed in the Press as a possible outcome of the review of fiscal policy which the Chancellor is apparently contemplating. It seems unlikely, however, that Mr Butler is thinking along the lines of a sales tax. What is more probably in his mind is some appreciable widening of the scope of the purchase tax. In order to maintain the Welfare State in an inflationary epoch, some increase in taxation may be inevitable, and it is to higher indirect taxation rather than to direct taxation that the Chancellor may be looking to meet this situation.

Source: *Taxation Vol. LVI, No. 1472.*

India

Tax concessions on passage money of non-Indian employees in connection with their home leave from India are announced.

To earn the concession for the first time the employee must have completed at least forty-two months' service in India and thirty months must have elapsed since the date of his last home leave. In the case of twenty-five years' service, exemption from tax will be given in respect of four set passages. The concession is in respect of passage for the employee, his wife, and two children under 12 years.

Source: *Taxation Vol. LVI No. 1471.*

India

Talks have begun between British and Indian delegations in an attempt to reach agreement on the avoidance of double taxation with regard to estate duties.

Source: *Taxation Vol. No. LVI* 1475.

New Zealand

The 1955 Budget includes a number of tax reductions which will cost £9.800.000. Perhaps the most important of these concessions is a 20 per cent income tax rebate to individual taxpayers up to a limit of £75. Other concessions are given to consumers in the form of cuts in sales tax. Sales tax is reduced on bicycles, clocks, medicinal preparations and drugs.

Source: *The Taxpayers' Bulletin* (*Australia*), *Vol.* 24 *No.* 11.

Argentina

At a press conference held on 12th December, the Minister of the Treasury, Dr. Eugenio A. Blanco, announced a decree exempting tax defaulters from fines, surcharges and other penalties for unpaid taxes due before 30th June 1955, and granting facilities for payment of overdue taxes over a period of four years. The reason given for this concession was, he said, that misgovernment had adversely affected the liquidity of commercial firms. The Minister said that the debt to the Treasury, including interest and fines, for delay now exceeded 3,000m. pesos. The concession would not be granted to those found guilty of illicit enrichment, but would be extended to persons who had made incorrect declarations of income. Taxes not included in the amnesty were those on moneylenders and on passages abroad, betting taxes, consular fees, and fees for the inspection of limited liability companies. Fines unpaid for over five years would be waived if they did not exceed 5,000 pesos. Likewise, taxes pending judicial collection for amounts not exceeding 10,000 pesos would be cancelled if they were unpaid for over 10 years. Roughly 10 per cent of the total debt for unpaid taxes, or some 200 m. pesos, would be cancelled in these ways. The purpose of the measure was to remove the weight of debt and allow commerce and production to recover, and the Minister said that a similar solution might be applied to the debts of employers in respect of contributions to pension funds, which totalled some 5,000m. pesos.

Dr Blanco declared categorically that there would be no dismissals of civil servants, and said that the Government's plan of taxation aimed at avoiding unemployment in private enterprises. He said that the 1955 budget would be maintained for 1956. The Government hoped to obtain through tax remissions and increase of 20-30 per cent in production.

Source: *Bank of London and South America Limited Fortnightly Review, Volume* 21 *No.* 503.

Canada

Sales Tax Committee-Progress Report

The Committee appointed by the Minister of Finance to study certain aspects of sales tax has been conducting its enquiries during the fall months. Most of the trade and professional associations having a close interest in the sales tax, and some individual firms as well, have made representations. The former include the Canadian Manufacturers Association, the Canadian Chamber of Commerce, the Canadian Automobile Chamber of Commerce, the Canadian Electrical Manufacturers Association, the Canadian Construction Association, the Canadian Institute of Steel Construction, the Canadian Pharmaceutical Manufacturers Association, the Canadian Retail Federation,

the Canadian Bar Association, and others. Representations from private firms were made by the companies on both sides of the "stencil-brand" tire issue, and it is understood that other groups, including the railways, have also submitted briefs. The Foundation of course also made a submission, which was mailed some time ago to all members.

The Committee has not been content with the purely passive role of receiving briefs, however. It has actively canvassed information and views from every possible source, and during a recent week visited Washington to consult with Treasury officials and other interested persons on American experience with related problems encountered in the administration of their excise taxes. Two members of the Committee also attended the sessions devoted to sales tax at our own recent conference as fairly active observers.

With an assignment which, tc say the least, is a tough and thankless one the Committee has impressed all who have appeared before it with the efficient and unspectacular way in which it is tackling the job of getting to the roots of the problems set out in its terms of reference.

Source: *Canadian Tax Journal Vol. III, No. 6.*

United States

Excise taxes

During October, a House Ways and Means subcommittee under the chairmanship of Representative Forand held hearings on a wide range of questions in the excise tax field. Treasury Department tax officials are working with Congressional staff members on the problems which have been brought to the Subcommittee's attention and will report to the Subcommittee with specific recommendations before the end of November.

Certain of the problems which are being examined are similar to those confronting the Canadian sales tax committee. The Forand subcommittee has, for example, received representations dealing with the selection of a tax base where excisable goods are sold directly to retailers rather than to distributors. In addition a multitude of rulings concerning the application of the various excise taxes have been brought to the light and are being reviewed in order to remove anomalies.

A number of federal excise tax rates are scheduled for reduction on April 1, 1956, and it is expected that the House Ways and Means Committee will examine the excise tax structure within the next few months. It has been suggested, therefore, that the findings of Mr Forands' subcommittee will receive close attention.

The 1955 sessions of the state legislatures saw an almost unprecedented volume of tax legislation. There were few instances of entry into new tax fields but increases in rates of both income and excise taxes were numerous.

Income Taxes

Income taxes, corporation as well as personal, were favourite targets of the state legislators. Five states increased both corporation and personal income taxes, three states increased only corporation income taxes and three states increased only personal income taxes. One state, Georgia, appeared to move against the tide and reduced income tax rates but this measure was offset by withdrawal of the right to deduct federal income taxes when calculating Georgia income taxes.

Sales taxes

The rates of sales tax levied by six states were increased, and Nevada introduced a two per cent sales and use tax. Meanwhile Pennsylvania permitted its one per cent sales tax to expire, leaving 32 states in this field.

Cigarette taxes and gasoline taxes were increased in 10 and in 15 states respectively.

Source: *Canadian Tax Journal Vol. III, No. 6.*

III

SWITZERLAND

I. DER STEUERPFLICHTIGE KANN EINEN ENTSCHEID ÜBER EINEN KLAR UMSCHRIEBENEN TATBESTAND AUCH DANN VERLANGEN, WENN DIESER IN SEINEM GESCHÄFTSBETRIEB NOCH NICHT EINGETRETEN IST (ART. 5, ABS. 1, LIT. A WUB).

II. DER NACHWEIS DER DIREKTEN AUSFUHR IST DERART ZU ERBRINGEN, DASS DIE MÖGLICHKEIT EINER TÄUSCHUNG ALS AUSGESCHLOSSEN ERSCHEINT.

Aus dem Tatbestand;

1. Die Firma A. ist als Grossist im Sinne von Art. 9 WUB bei der eidg. Steuerverwaltung (EStV) im Register der Warenumsatzsteuerpflichtigen eingetragen. Sie betreibt in einem an der Schweizergrenze gelegenen Ort Handel mit, sowie Import und Export von chemisch-pharmazeutischen Produkten, von medizinisch-chirurgischen Apparaten und Instrumenten und von Metallen; ferner befasst sie sich mit internationalen Transporten, Verzollungen und Geldwechsel. Ihre Warenhandelstätigkeit übt sie vorwiegend auf dem Wege des Exportes, unter Umgehung der ausländischen Zollkontrolle, aus.

2. Die Steuerpflichtige verlangte im Hinblick auf ihre Erklärung, sie verbringe ihre nach . . . verkauften Waren in bedeutendem Umfange durch in ihrem Dienste stehende Leute unter Umgehung der . . . schen Zollkontrolle ins Ausland, dass die EStV diese Umsätze (auf welchen bis anhin die Warenumsatzsteuer entrichtet worden war) in Zukunft als steuerfreie direkte Exportlieferungen anerkenne, auch wenn der Exportnachweis nicht in Form von zollamtlich abgestempelten Ausfuhrdeklarationen oder amtlich gestempelten Versandpapieren (Frachtbrief, Postempfangschein) erbracht werde. Der Nachweis der Exportes könne durch folgende Unterlagen erbracht werden:

a) lückenlose und einwandfreie Buchhaltung der Steuerpflichtigen mit Lagerlisten, aus denen sämtliche Warenein- und Ausgänge ersichtlich seien;
b) Doppel der an die Käufer im Auslande ausgestellten Rechnungen;
c) Korrespondenzen mit den ausländischen Kunden;
d) Auszug des von der Steuerpflichtigen im Auslande auf ihren Namen unterhaltenen Bankkontos, aus welchem die von den ausländischen Abnehmern für Warenlieferungen der Steuerpflichtigen erbrachten Gegenleistungen ersichtlich seien.

Die Steuerpflichtige erklärt sich ferner bereit, der EStV bei der Durchführung allfälliger Stichproben im Auslande behilflich zu sein.

Die EStV hat mit Entscheid vom 8. Februar 1955 das Begehren der Steuerpflichtigen abgewiesen. Sie stellte dabei fest, dass die angebotenen Beweismittel zum Nachweis angeblicher Direktexporte nicht genügen würden und dass sie (falls es sich bei den in Betracht fallenden Umsätzen um Inlandlieferungen der Steuerpflichtigen zwecks unmittelbarer Ausfuhr durch die Abnehmer handeln sollte) auch nicht als Ausfuhrnachweis im Sinne der Verfügung Nr. 8c des eidg. Finanz- und Zolldepartementes betreffend die Warenumsatzsteuer vom 17. Juni 1954 gelten könnten.

3. Gegen diesen Entscheid richtet sich die von der Steuerpflichtigen am 4. März 1955 erhobene, als „Rekurs" bezeichnete Einsprache. Die Einsprecherin hält an ihrem bereits Gegenstand des Entscheidverfahrens bildenden Begehren um Steuerbefreiung der nicht unter Zollkontrolle erfolgenden Direktexporte im vollen Umfange fest und ersucht die EStV, die angebotenen Beweismittel als genügenden Ausfuhrnachweis anzuerkennen oder ihr andernfalls bekanntzugeben, auf welche Art die Ausfuhr im Hinblick auf die beanspruchte Steuerbefreiung der entsprechenden Umsätze nachgewiesen werden könne. In der Einsprache wird festgestellt, dieses Begehren beziehe sich ausschliesslich auf künftige Warenlieferungen der Einsprecherin, auf „Geschäfte, welche nicht gemacht werden können", wenn die anbegehrte Steuerbefreiung nicht gewährt werde. Zur Begründung des gestellten Begehrens wird ausgeführt, dass die EStV, gestützt auf den letzten Satz von Art. 2 der Verfügung Nr. 8c des eidg. Finanz- und Zolldepartementes be-

treffend die Warenumsatzsteuer vom 17. Juni 1954 (Inlandumsätze zwecks Ausfuhr), für den Nachweis der Ausfuhr andere als die in jener Verfügung ausdrücklich genannten Beweismittel (amtlich gestempelte Ausfuhrdeklarationen, internationale Bahnfrachtbriefe oder Postempfangsscheine) zulassen könne. Die von der EStV dargelegten Gründe, weshalb es nicht möglich sei, die von der Einsprecherin angebotenen Beweismittel als zuverlässigen Ausfuhrnachweis anzunehmen, könnten mit Rücksicht auf die bei der Firma A. herrschenden besondern Verhältnisse (Erledigung der Korrespondenz und Buchhaltung durch Angestellte) nicht als stichhaltig anerkannt werden. Die Einsprecherin weist schliesslich ausführlich auf die der illegalen Einfuhr in . . . gegenwärtig im Wege stehenden Schwierigkeiten hin und vertritt die Ansicht, dass ein volkswirtschaftliches Interesse an der Förderung des schweizerischen Exportes dieser Art bestehe.

Erwägungen;

1. In erster Linie ist zu untersuchen, inwieweit die hier zur Beurteilung stehende Frage, ob vorläufig noch nicht realisierte Warenumsätze bestimmter, von der Einsprecherin klar umschriebener Art überhaupt Gegenstand eines Einspracheentscheides bilden könne. Die Voraussetzungen, unter welchen die EStV befugt ist, Entscheide und Einspracheentscheide auszufällen, sind in Art. 5 und Art. 6, Abs. 1 WUB abschliessend aufgezählt. Art. 5, Abs. 1 WUB bestimmt, dass die EStV u.a. dann einen Entscheid zu treffen habe, wenn ein Steuerpflichtiger „für einen bestimmten Fall" die amtliche Feststellung des Bestehens oder des Umfanges der Steuerpflicht oder des anwendbaren Steuersatzes beantrage. (Diese Vorschrift ist in analoger Weise auf das Einspracheverfahren, anwendbar; denn die EStV hat nicht nur im Entscheidverfahren, sondern erneut in dem diesem allenfalls nachfolgenden Einspracheverfahren von Amtes wegen zu prüfen, ob die gesetzlichen Voraussetzungen für die entscheidmässige Beurteilung eines bestimmten Sachverhaltes überhaupt erfüllt sind.)

Der WUB enthält keine näheren Bestimmungen darüber, was unter einem „bestimmten Fall" im Sinne von Art. 5, Abs. 1, lit. a WUB zu verstehen ist. Es fragt sich deshalb, ob als „bestimmter Fall" nur ein bereits verwirklichter, konkret vorliegender Sach-

verhalt zu gelten habe, oder ob nach dem Sinne der erwähnten Gesetzesbestimmung als „bestimmter Fall" auch vorläufig noch nicht realisierte Tatbestände in Betracht fallen können, sofern sie hinsichtlich aller für die steuerliche Beurteilung wesentlichen Einzelheiten klar und eindeutig umschrieben sind.

Infolge der Ausgestaltung der schweizerischen Warenumsatzsteuer als Selbstveranlagungssteuer hat der Steuerpflichtige spontan und unter eigener Verantwortung, jeweils innert der gesetzlichen Fristen, über seine Warenumsätze abzurechnen und die geschuldeten Steuern zu entrichten. Das bedingt, dass er sich — wenn er diese Pflichten richtig erfüllen will — über Bestand und Umfang der Steuerpflicht und den im Einzelfall jeweils anwendbaren Steuersatz im klaren sein muss.

Wenn der Gesetzgeber mit der Vorschrift von Art. 5, Abs. 1, lit. a WUB einzig und allein bezweckt hätte, dem Steuerpflichtigen auch in Zweifelsfällen zu ermöglichen, seinen konkreten Pflichten gegenüber der EStV auf Grund eines verbindlichen Entscheides nachkommen zu können, wenn also mit dieser Gesetzesbestimmung nur die Möglichkeit der richtigen Erfüllung der den Steuerpflichtigen gegenüber der EStV treffenden Pflichten hätte gewährleistet werden sollen, könnte unter dem Ausdruck „bestimmter Fall" nichts anderes als ein bereits realisierter Sachverhalt verstanden werden; bei dieser Auslegung wäre es somit ausgeschlossen, dass ein im Betriebe der Einsprecherin noch nicht wirklich vorgefallener, sondern sich erst künftig realisierender Sachverhalt, wie er der vorliegend zu beurteilenden Einsprache zugrunde liegt, Gegenstand eines Entscheides oder Einspracheentscheides der EStV bilden könnte. Indessen bestehen keine besonderen Anhaltspunkte dafür, dass der Gesetzgeber den dem Steuerpflichtigen durch Art. 5, Abs. 1, lit. a eingeräumten Rechtsschutz so eng begrenzen und die Möglichkeit, gestützt auf diese Vorschrift von der EStV einen Entscheid zu verlangen, nur auf bereits verwirklichte, konkret vorgefallene Tatbestände beschränken wollte. Neben dem Interesse des Steuerpflichtigen, seine ihm gegenüber der EStV obliegenden konkreten Pflichten vollständig und richtig zu erfüllen, besteht ein (vom Standpunkte des Pflichtigen aus betrachtet) mindestens ebenso grosses Interesse, die Möglichkeit zu besitzen, auch die warenumsatzsteuerrechtlichen Auswirkungen erst künftig ab-

zuwickelnder Warenumsätze rechtzeitig durch verbindlichen Entscheid seitens der EStV feststellen zu lassen; denn der im Wirtschaftsverkehr stehende, nach kaufmännischen Gesichtspunkten tätige Steuerpflichtige muss sich in der Regel bereits vor Eintritt der Steuerfälligkeit (Art. 24 WUB) darüber schlüssig werden, ob er eine Ware überhaupt umsetzen (erwerben und weiterveräussern) will. Dies setzt aber voraus, dass er die steuerlichen Auswirkungen solcher Geschäfte bereits zum voraus kennt und dass er im Zweifelsfalle diese Auswirkungen durch die EStV auf dem Entscheidwege feststellen lassen kann. Es dürfte keinem Zweifel unterliegen, dass der Gesetzgeber auch diese Interessen des Steuerpflichtigen (und nicht nur dessen Interesse an der richtigen Erfüllung seiner gegenüber der EStV schon bestehenden Obliegenheiten) im Rahmen von Art. 5, Abs. 1, lit. a schützen wollte. Es entspricht somit dem Sinne von Art. 5, Abs. 1, lit. a WUB, wenn ein Steuerpflichtiger einen Entscheid der EStV über Bestand und Umfang seiner Steuerpflicht oder den anwendbaren Steuersatz nicht nur beim Vorliegen eines konkreten Tatbestandes, sondern auch für andere bestimmte, d. h. in allen wesentlichen Einzelheiten klar umschriebene, wenn auch im Betriebe des Pflichtigen vorläufig noch nicht verwirklichte Tatbestände verlangen kann.

Aus den Gesagten ergibt sich für den vorliegenden Fall folgendes: Die in der Einsprache vorgebrachten Begehren können nur insoweit Gegenstand des Einspracheentscheides bilden, als es sich um die Beuerteilung der Frage handelt, ob mittelst bestimmter, von der Einsprecherin namentlich erwähnter Unterlagen der schlüssige Nachweis für die Direktausfuhr der angeblich nicht unter Zollkontrolle zu exportierenden Waren erbracht werden könne; denn der steuerlich massgebende Sachverhalt ist hier, obgleich bis anhin im Betriebe der Einsprecherin noch nicht verwirklicht, doch soweit präzisiert, dass von einem „bestimmten Fall" im Sinne von Art. 5, Abs. 1, lit. a WUB gesprochen werden kann. Dagegen betreffen die übrigen Einsprachebegehren insbesondere das generelle Ersuchen, die EStV möge die Beweismittel bestimmen, welche als Nachweis für die Direktausfuhr von Waren anerkannt würden) keinen „bestimmten Fall" sie können deshalb nicht Gegenstand des vorliegenden Einspracheverfahrens bilden.

2. Der Grossist hat nach Art. 13, Abs. 1, lit. a WUB die Steuer

auf den Lieferungen im Inlande (und dem Eigenverbrauch von Waren) zu entrichten. Vorbehalten bleiben die im Gesetz ausdrücklich geregelten Ausnahmen von diesem Grundsatze danach sind die Umsätze der in Art. 14, Abs. 1, lit. b WUB abschliessend aufgezählten Warenkategorien, ferner die Engroslieferungen an Grossisten gegen Grossistenerklärung (Art. 14, Abs. 1, lit. a WUB) und — unter den in der Verfügung Nr. 8c des eidg. Finanz- und Zolldepartementes vom 17. Juni 1954 betreffend die Warenumsatzsteuer erwähnten Voraussetzungen — auch die Inlandlieferung zwecks Ausfuhr von der Steuer befreit. Diese Ausnahmen fallen jedoch bei dem hier zur Beurteilung stehenden Tatbestande ausser Betracht. Insbesondere geht die Berufung der Einsprecherin auf Art. 2, letzter Satz der erwähnten Verfügung fehl, weil diese Verfügung sich nur auf Inlandumsätze zwecks Ausfuhr bezieht, der vorliegend zu beurteilende Sachverhalt jedoch ausschliesslich Direktlieferungen der Einsprecherin ins Ausland, also Ausfuhrlieferungen umfasst. Selbst wenn es sich übrigens, entgegen der von der Einsprecherin gegebenen Darstellung des Sachverhaltes, hier nicht um Direktlieferungen ins Ausland, sondern um Inlandlieferungen zwecks Ausfuhr handeln sollte, könnten die von der Einsprecherin angebotenen Beweismittel aus den im angefochtenen Entscheid dargelegten Gründen nicht als für die vorangehende Inlandlieferung steuerbefreiend wirkender Ausfuhrnachweis gelten.

Es ergibt sich jedoch aus dem in Art. 13, Abs. 1, lit. a WUB festgehaltenen Grundsatz der Steuerbarkeit der Inlandlieferungen des Grossisten, dass die direkten Ausfuhrlieferungen nicht der Abgabe unterliegen. Die Beweislast dafür, dass im einzelnen Fall nicht eine Inlandlieferung, sondern eine Direktlieferung ins Ausland vorliegt, trifft den Grossisten, der aus dieser Tatsache für sich das Recht auf Steuerfreiheit des entsprechenden Warenumsatzes ableitet. Der WUB enthält keine Vorschriften darüber, in welcher Weise dieser Beweis zu leisten sei. Der Nachweis ist deshalb in jeder Form zulässig, die geeignet ist, in eindeutiger und zuverlässiger Weise darzutun, dass und welche Waren im einzelnen durch den Steuerpflichtigen oder einen in seinem Namen handelnden Beauftragten ins Ausland verbracht wurden.

Zu prüfen ist folglich im Einspracheverfahren einzig noch die Frage, ob die von der Einsprecherin angebotenen Beweismittel (Kor-

respondenzen, Doppel der an die ausländischen Abnehmer ausgestellten Rechnungen, Bankkontoauszug, Buchhaltung) diesen Anforderungen genügen.

3. Es liegt im Wesen des illegalen Exportes begründet, dass bei dieser Art der Ausfuhr, welche in absichtlicher Umgehung jeder amtlichen Kontrolle erfolgt, ein zuverlässiger Nachweis über Zeit und Ort, sowie Gegenstand und Umfang des angeblich durchgeführten Exportes in der Regel nicht erbracht werden kann. Eine Ausnahme bildet nur der Nachweis des tatsächlich stattgefundenen Exportes auf Grund eines Beschlagnahmeprotokolls oder ähnlichen Dokuments der ausländischen Zollbehörde. Selbst wenn nachträglich das Vorhandensein von Waren gleicher Art, wie sie Gegenstand des angeblichen Exportes bildeten, im Auslande festgestellt würde bestehen doch regelmässig Zweifel darüber, ob es sich bei diesen Waren gerade um diejenigen handle, welche Gegenstand der Lieferung eines bestimmten Steuerpflichtigen bildeten. Aber auch wenn dies zutreffen sollte, würde ausserdem in solchen Fällen offen bleiben, ob die illegale Ausfuhr direkt durch den Grossisten oder allenfalls erst (nach vorangehendem Inlandumsatz) durch dessen Abnehmer getätigt wurde.

Im Hinblick auf diese Möglichkeiten einerseits und auf die Ausgestaltung des schweizerischen Warenumsatzsteuersystems anderseits, das auf der Besteuerung der Inlandlieferungen beruht, müssen an den Ausfuhrnachweis strenge Anforderungen gestellt werden. Würde nämlich auf den strikten Ausfuhrnachweis verzichtet, so wäre das Prinzip der Besteuerung der Inlandlieferungen durch die sich bietenden mannigfaltigen Umgehungsmöglichkeiten in Frage gestellt und damit auch die gleichmässige Handhabung des Warenumsatzsteuergesetzes gegenüber den Steuerpflichtigen gefährdet.

Der Beweiswert der dürch die Einsprecherin als Ausfuhrnachweis angebotenen Unterlagen wurde bereits im Entscheide einlässlich geprüft: Gerade im illegalen zwischenstaatlichen Verkehr stellen erfahrungsgemäss die Beteiligten einander oft Gefälligkeitserklärungen aus, weil die materielle Ueberprüfung solcher Erklärungen, zufolge der fehlenden Kontrollmöglichkeit der Behörden des einen Staates im anderen, meist unmöglich ist. Die EStV wäre auch bei dem hier in Rede stehenden Fall nicht in der Lage, die Bestellungen,

Korrespondenzen und Erklärungen der angeblichen Warenabnehmer der Einsprecherin im Auslande auf ihre Richtigkeit hin zu überprüfen, weil sie gegenüber diesen Personen weder über die ihr gegenüber inländischen Abnehmern zustehenden Befragungs- und Kontrollmöglichkeiten noch über Strafkompetenzen verfügt (Art. 4, Abs. 2, lit. b und Art. 35 WUB). Sie könnte auch nicht zuverlässig feststellen, und zwar selbst bei Vorlage der Bankkontoauszüge und Zahlungsbelege nicht, ob die auf den Namen der Einsprecherin an ausländische Banken geleisteten Zahlungen Entgelte für von der Einsprecherin tatsächlich ausgeführte Warenlieferungen darstellen. Falls die EStV auf solche Zahlungsbelege abstellen wollte, wäre es dem in Betracht fallenden Steuerpflichtigen ein Leichtes, reine Finanztransaktionen als Zahlungen für einen angeblich erfolgten Warenverkehr vorzutäuschen und so inländische Warenumsätze ganz oder teilweise als Direktlieferungen ins Ausland zu tarnen. Kann aber nach dem Gesagten weder auf die Bestellungen, Korrespondenzen und Erklärungen der angeblichen ausländischen Abnehmer zuverlässig abgestellt werden, noch auf die im Namen dieser Personen auf das ausländische Bankkonto der Einsprecherin erfolgten Zahlungsüberweisungen, um zu ermitteln, ob und in welchem Umfange tatsächlich Direktlieferungen der Einsprecherin ins Ausland vorliegen, so ist auch der gestützt auf diese Unterlagen erstellten Buchhaltung der Einsprecherin in dieser Beziehung keine weitergehende Beweiskraft beizumessen.

Dem Einwand, dass die Einsprecherin durch die in ihrem Betriebe herrschenden speziellen Verhältnisse (Erledigung der Korrespondenz und Buchhaltung durch Angestellte) besondere Gewähr für die richtige Erfüllung der steuerlichen Obliegenheiten biete, kommt bei der Beurteilung des hier in Rede stehenden Sachverhalts keine entscheidende Bedeutung zu; denn dadurch wird die Tatsache nicht beseitigt, dass die EStV auf Grund der von der Firma A. für den Nachweis der angeblich direkten Warenausfuhr angebotenen Unterlagen keine wirksame Kontrolle ausüben könnte. Zudem wäre es der EStV, mit rücksicht auf den Grundsatz der Rechtsgleichheit, auch nicht möglich, der Einsprecherin gegenüber anderen Grossisten eine bevorzugte Sonderbehandlung zuteil werden zu lassen.

Die Bestimmungen des WUB bieten auch keinen Raum für die

Berücksichtigung der in der Einsprache dargelegten Schwierigkeiten, welche sich gegenwärtig dem unter Umgehung der Zollkontrolle erfolgenden Warenexport nach . . . entgegenstellen sollen, und für die Berücksichtigung des angeblich bestehenden Interesses der schweizerischen Wirtschaft an dieser Art des Exportes.

4. Aus dem Gesagten ergibt sich, dass die von der Einsprecherin erwähnten Unterlagen zum Nachweis des Direktexportes von Waren ins Ausland nicht genügen. Die Einsprache ist deshalb, soweit überhaupt darauf eingetreten werden kann, als unbegründet abzuweisen.

259 Eidg. Steuerverwaltung, 28. Juni 1955, i. S. A., X.

Source: *Archiv für Schweizerisches Abgaberecht, October 1955, p. 141*

IV

REVIEWS — COMPTES RENDUS

URSULA K. HICKS: *British Public Finances, Their Structure and Development* 1880-1952 — Geoffrey Cumberlage, Oxford University Press, London, 1954, 225 pp.

The book relates the stages of growth of Government finance in Britain from 1880 till 1952, i.e. the period chosen opens just at the termination of the peak of Victorian "Laisser-faire" and economy in the public services. The story ends with 1951, which year witnessed the return of the Conservatives to power.

First of all the book treats the growth of the public authorities and the forms of public expenditure. The methods of adopting the tax structure to the needs of expenditure are then examined and the effects of high income taxes on personal incentive and saving and on the ability of industry to develop are discussed.

And then local government, budget balance, national balance, loan finance and debt management are dealt with.

We recommend this book in the attention of our readers.

HAROLD M. GROVES: *Financing Government*—fourth edition—Henry Holt and Company, New York 1954, 618 pp.

The fourth edition of this book attempts to achieve greater objectivity and to lessen the weight of the author's opinion in the presentation of controversial matters. The onrush of world events since 1949 has brought many changes in the tax structure accompanied by much new public finance literature. Practically all chapters therefore have been substantially reworked.

For instance, the chapters on fiscal policy and public debt are modified to take recent experience with inflation and the reversal of easy money policy into account. Chapter 8 on income taxes is modified to include the latest adventure with excess profits taxation and chapter 24 to discuss current budgetary-procedure problems created by long-range defense contracts.

Chapter 14 on Social Security Taxes has been entirely rewritten.

We recommend the new edition of this excellent work in the attention of our readers.

Bibliographies en matière fiscale

Le nombre d'ouvrages et d'articles de revues en matière fiscale est tellement abondant à l'heure actuelle que les fiscalistes ont des difficultés presque insurmontables pour se retrouver dans ce dédale. Même si beaucoup de ces publications n'ont pas une grande valeur, il en reste néanmoins un très grand nombre qui sont indispensables au fiscaliste qui veut sérieusement faire son travail.

Déjà la plupart des revues scientifiques et professionnelles donnent des comptes rendus ou des sélections qui comblent la lacune, et dans beaucoup de publications on peut trouver une bibliographie des ouvrages consultés.

Ce qui manquait encore dans les différents pays c'est un ouvrage donnant un aperçu complet de ce qui a été publié en matière fiscale dans une période déterminée. Nous sommes heureux de pouvoir annoncer quelques livres récemment publiés qui donneront satisfaction à ceux qui veulent se renseigner à ce sujet.

En **Allemanqe** il s'agit de la série
NJW-Fundhefte, 6. *Abteilung, Steuerrecht,*
Volumes I (561 pages) et II (336 pages)
bearbeitet von H. ZIEMER, H. KALBHENN & G. FELIX — C. H. Beck'sche Verlagsbuchhandlung, München/Berlin 1955.

Le premier volume concerne les publications parues dans la période 14.9.1949 — 31.12.1953, la deuxième celles de 1954.

Non seulement les ouvrages et articles de revues ont été insérés mais on y trouvera également des références à la jurisprudence. Au besoin les compilateurs ont ajouté un bref commentaire ou une explication, ce qui rend ces ouvrages très volumineux extrêmement utiles et importants.

La matière est divisée en quatre groupes:
1. Généralités histroire, questions de politique économique et fiscale.
2. Droit fiscal international et étranger (Les données de cette rubrique ne pouvant être complètes, on a renvoyé les lectures au „Documentation Service du Bureau International de Documentation Fiscale", Voir ci-après).
3. Droit fiscal allemand.
4. Thèses de doctorat publiées entre 1946 et 1953. Un index analytique termine chaque volume.

En **Suisse** il n'existe pas d'ouvrage spécial de caractère bibliographique, mais en parlant de ce sujet nous croyons utile de mentionner la grande publication en 4 volumes de L'ADMINISTRATION FÉDERALE DES CONTRIBUTIONS intitulé *„Les impôts de la Suisse"*. — Verlag für Recht und Gesellschaft, Bâle.

Cet ouvrage à feuillets mobiles régulièrement mis à jour (les derniers suppléments sont de 1955) comprend non seulement un aperçu de la législation fiscale fédérale et cantonale, qui est extrêmement utile surtout pour les étrangers qui veulent d'un coup d'oeil se renseigner sur le droit fiscal suisse, mais dans le premier volume on trouve une bibliographie complète de tout ce qui a été publié en Suisse en matière fiscale.

Nous nous contenterons de mentionner ici cet ouvrage dont nous avons publié un compte rendu dans le *Bulletin* Vol IV, p. 389.

Aux **Pays-Bas** une bibliographie a paru en deux volumes et qui sera continuée chaque année:
EMMA DRONCKERS: *Bibliographie van het Nederlandse belastingwezen (bibliographie de la fiscalité néerlandaise)* — L. J. Veens Uitgeversmaatschappij, Amsterdam, 1954 et 1955.

Le premier volume (174 pages) donne une bibliographie des ouvrages et articles parus dans la période 1940-1946, le deuxième volume (269 pages) concerne les années 1947-1952.

L'auteur qui n'est pas fiscaliste elle-méme s'est assurée de la collaboration de M. M. R. Reuvers, Inspecteur des contributions.

En outre elle a profité de la bibliothèque du Bureau International de Documentation Fiscale, Amsterdam.

Les deux volumes se composent d'une partie systématique contenant les données bibliographiques, et d'une partie alphabétique où l'on trouve les sujets et les auteurs avec renvoi à leurs publications.

Contrairement à l'ouvrage allemand on ne trouve pas de jurisprudence dans la bibliographie néerlandaise, bien que l'auteur ait inséré naturellement les recueils et autres sources de jurisprudence fiscale.

Aux **Etats-Unis d'Amérique** le TAX INSTITUTE mérite d'être mentionné ici pour son travail extrêmement important pour le développement de l'étude de la science fiscale. Outre les ouvrages publiés par le Tax Institute dont nous avons régulièrement publié un compte rendu, il faut attirer l'attention des lecteurs sur la revue.

Tax Institute Bookshelf
paraissant 12 fois par an
(tax Institute, Inc., Princeton, New Jersey)

Cette revue est exclusivement consacrée aux publications fiscales, dont la plupart des ouvrages et revues américains, avec mention de quelques publications d'importance générale parues dans d'autres pays. Parmi les quelques revues étrangères on fait régulièrement mention du Bulletin de Documentation Fiscale Internationale, ce qui peut prouver l'intérêt dont jouissent nos activités aux Etats-Unis.

Les ouvrages et articles sont classifiés d'après un système très bien conçu, ce qui permet à ceux qui utilisent cette revue de se renseigner facilement et rapidement sur les publications en premier lieu américaines.

Enfin, nous nous permettons de mentionner sous ce rapport notre *„Documentation Service"*, paraissant deux fois par mois et qui donne une sélection, par sujet et par pays, de nouvelles lois et des ouvrages et articles de revues entrés dans la bibliothèque du Bureau. Cette liste bimensuelle permet aux abonnés de se rendre compte de changements dans les législations fiscale des différents pays, et de se renseigner sur les nouvelles publications.

Dr. jur. HEINZ ULLMANN: *Die Gewinnermittlung für nicht-buchführende Gewerbetreibende* — Handbücherei des Steuer- und Wirtschaftsrecht, Band 8, W. Stollfuss Verlag, Bonn, 1953, 64 pp.

This work has not been written for the specialist, but for the layman in the field of taxation. The author, when considering his subject, proceeded along official lines for the determination of profit of trades without proper accountancy. Of great value are the many practical examples, which are treated.

BRECHT-BODIEN-FLENDER-ZWANCK: *Der Lastenausgleich in der wohnungswirtschaft* (looseleaf commentary) — Hammonia Verlag, Fachverlag der Wohnungswirtschaft, Hamburg 1953.

The "Lastenausgleichabgaben" are very far-reaching in social life in Western Germany. The acts are complicated and many subjects are regulated in it. The commentaries, profound and extensive as they are, must be greatly limited on certain points. This loose-leaf work, in 3 volumes, deals completely with all subjects concerning the "Lastenausgleich" and the housebuilding entrepreneurs. Vol. I contains the texts of the acts, decrees etc., vol. II and III contain commentaries. The volumes are kept up-to-date by regular issue of supplements. In the section "housebuilding" this work will render inestimable services.

ENGELBERT SCHENER: *Die Berechnung der Sozialversicherungsbeitrage*. Band 7, Handbücherei des Steuer- und Wirtschaftsrecht. — Wilhelm Stollfussverlag, Bonn, 1954, 119 pp.

Not only the fiscal law but also the social law has become extremely complicated in many countries, among which also Germany. Therefore a great need exists for a practical handbook. This work is intended to be such a handbook. It has been composed in a very surveyable manner and is a valuable guide for everyone who comes into contact with German social law.

EMIL KÜNG: *Das Allgemeine Abkommen über Zölle und Handel* (G.A.T.T.); — Polygraphischer Verlag A.G., Zürich und St. Gallen, 1952, 173 pp. *Bilateralismus und schweizerische Handelspolitik*, — Polygraphischer Verlag A.G., Zürich und St. Gallen, 1953, 156 pp.

Two publications of the "Schweizerisches Institut für Aussenwirtschaft und Rechtsforschung an der Handelshochschule St. Gallen" (respectively nos. 13 and 14) concerning two closely related subjects.

The first book deals with the General Agreement on Tariffs and Trade.

The author treats succesively and succinctly the genesis of this treaty (the conferences of Havana, Geneva, Annecy, again Geneva and Torquay), the contents, the functioning hitherto, while finally he devotes a critical consideration, followed by the treatment of the question whether the accession of Switzerland can be considered to be desirable or not. The most important part of this book is the chapter in which the different articles of the treaty are set forth, by which means the reader gets a clear survey of the contents.

Whereas a part of the first book is not concerned with the fiscal law, from the nature of things this is more the case in the second book. But also those who do not occupy themselves only with import and export duties can find important remarks. The main theme, however, consists of considerations about the trade and transfer of payments, and the different aspects which crop up in this respect.

Steuerbelastung in der Schweiz — 1953 and 1954 — Bearbeitet von der EIDGENÖSSISCHEN STEUERVERWALTUNG Statistische Quellenwerke der Schweiz, Bern, Heft 252, 67 pp. (1953), Heft 267, 63 pp. (1954).

Just as it did in the past years the Eidgenössische Steuerverwaltung at Berne has composed again a statistical survey of the tax burden in Switzerland. Preceded by a general survey of the most important modifications of the taxes in 1953 and 1954 a schematic outline of the rates valid in these years follows. The setting forth are in French and German.

Unternehmer-Forderungen an eine neue Wirtschafts- und Finanzverfassung. — Verlag Dr. Otto Schmidt K. G., Köln, 1954, 95 pp.

This booklet contains 4 lectures held at the meeting at Bad Godesberg of the Arbeitsgemeinschaft selbständiger Unternehmer (association of independent entrepreneurs). The problem of the great tax revision came up for discussion. The following subjects were dealt with:

Dr. Walter Eckhardt — Probleme der organischen Steuerreform.

Dr. Franz Merkle — Besteuerung und Kapitalbildung.

Dr. Georg Strickrodt — Rechte und Pflichten der Unternehmer in der Finanzverfassung.

Prof. Dr. Wilh. Geiger — Verfassungsrechtliche Forschungen zur Gestaltung der Wirtschaft?

Det norske skattesystems virkninger på den personlige inntekstfördeling. (The *effects of the Norwegian tax systems on the personal income distribution*). Samfunnsøkonomische studier 1, Statistisk Sentralbyrå, Oslo, 103 pp, 1954.

The subject treated in this book is the effect of the Norwegian tax system on the distribution of income. After a survey of former studies in this field and a short comparison with those written in other countries, the subject matter comes up for discussion, in which connection the authors compare the taxation of personal incomes in Norway 1947/48 and 1951/52 and the personal income distribution in Norway before and after taxlevying in 1950. A summary has been added in the English language.

R. LEFEBVRE et G. NOEL: *Manuel pratique des sociétés à Responsabilité limitée.* — Société des éditions Lefebvre, 15 Rue Viète, Paris, 1953.

To the series of the fiscal monographs recently published in France an excellent work about the Société à Responsabilité Limitée has again been added. This work comprises 115 pages, more than half of which are devoted to civil law and the remainder to fiscal law. The latter part deals successively with the fiscal effects in various stages in the existence of the SARL, viz. the taxes due at the foundation, when carrying on the business, when changing the articles of Association, when transferring the shares and finally at the winding-up. A special chapter is devoted to the social provisions of the "partners". This booklet, though succinct, gives a good survey of the different taxes which can affect the S.A.R.L., in which connection from the nature of things, the author pays the greatest attention to the "impôt sur la société" and the registration fees.

RUDOLF STUCKEN: *Deutsche Geld- und Kreditpolitik* 1914-1953. 2e Auflage, J. C. B. Mohr (Paul Siebeck), Tübingen 1953, 217 pp.

The first part of this book was published in 1937 and dealt with the monetary and credit policy in the period 1914-1936. The character of the German monetary policy was unique in the world in the thirties and therefore it is worthy of attention, especially because since this system has been imitated. Consequent on the 2nd World War new aspects arose and Prof. Stucken gives a clear and surveyable picture of the German policy. In the last chapter he pays attention to some points in which connection the German policy greatly differs from that of other countries.

W. J. de LANGEN: *De grondbeginselen van het Nederlandse belastingrecht* — T.I.N. Samson N.V., Alphen a.d. Rijn, 1954.

Un ouvrage très original du professeur de droit fiscal à l'université d'Amsterdam a enrichi la documentation fiscale néerlandaise; le premier tome en est paru à la fin de 1954. Le'auteur a traité la matière d'une façon qui est tout à fait différente des méthodes suivies jusqu'à présent. Il conduit le lecteur à travers l'ensemble du droit fiscal en suivant des chemins tout neufs et jusqu'ici inconnùes; par conséquent on trouve des rapports et des perspectives dans le présent ouvrage que l'on ne trouve pas dans les manuels habituels.

Le premier chapitre traitant des recherches faites par l'auteur, nous montre le but et l'objet de ce dernier. L'auteur a trouvé six principes fondamentaux, il ne les a pas cherchés expressément, il ne les propage pas: il les a trouvés seulement, après de longues années de recherches.

Le législateur fiscal applique alternativement trois de ces principes. En premier lieu le principe de la capacité contributive, c.à.d. le rapport entre l'impôt et le volume de la satisfaction possible des besoins de chacun pour autant qu'ils ne servent pas à la subsistance nécessaire.

Ensuite le principe dit de l'acquisition favorisée: la position favorable de l'acquéreur du revenu par rapport aux autres.

Enfin le principe de l'avantage, par lequel l'auteur entend le fait que l'on profite des services rendus par l'Etat et ses subdivisions. Les trois autres principes sont: le principe de la prospérité (comprenant, entre autres, les buts extrafiscaux), le principe du procédé le moins pénible et celui de la réalisation permise par lequel l'auteur veut indiquer les limites que le législateur ne doit pas surpasser,

Par ces principes l'auteur nous permet d'approfondir et d'élargir notre compréhension de la législation fiscale qui subit tant de changements. Ainsi on aura la possibilité de se frayer un passage pour une étude toujours plus

détaillée des principes, étude qui nous semble ne pas devoir se limiter nécessairement à un seul pays. Une pareille étude d'autres systèmes fiscaux donnera, à notre avis, des résultats remarquables et très importants.

W. J. DE LANGEN: *Begrenzing van de verwervingskosten.* Série „Fiscale Monographieën", No. 5 — AE. E. Kluwer, Deventer/Djakarta, 1955.

A l'occasion d'une réunion du groupement néerlandais de l'International Fiscal Association, dans laquelle l'ancien directeur de notre Bureau, M. ADRIANI, fut nommé membre honoraire dudit groupement, son successeur comme professeur de droit fiscal a fait une conférence sur les charges professionnelles qui peuvent étre portées en déduction lors de la détermination du revenu imposable. Cette conférence a servi de base à une étude plus détaillée de 60 pages.

Cette étude comprend une analyse de la jurisprudence abondante à ce sujet; l'auteur y donne un aperçu du développement de cette jurisprudence, et il indique les lignes suivant lesquelles les notions dans la matière devront se développer d'après lui pour répondre aux besoins pratiques.

Tout cela concerne le droit fiscal néerlandais et n'a pas une grande importance pour un étranger. L'étude de M. DE LANGEN contient toutefois beaucoup de notions et considérations qui ont une portée générale et qui sont importantes pour le droit fiscal d'autres pays aussi.

Mentionnons comme example la notion d'après laquelle ce n'est pas l'intention imperceptible du contribuable qui est décisive pour la déductibilité de certains frais — frais de voyage p. ex. — mais seulement la volonté pour autant que celle-ci est perceptible objectivement.

De nombreux problèmes qui existent ailleurs aussi, ont été traités à fond, p. ex. la femme mariée qui travaille (frais pour assistance dans le ménage), frais d'études, etc. etc.

UNITED NATIONS, DEPARTMENT OF ECONOMIC AFFAIRS: *World Economic Report* 1942/1953, — New York, April 1954, Sales-no.: 1954 II.C.1, 156 pp.

This report is the sixth in a series of comprehensive reviews published by the United Nations, intended to meet the requirements of the organs of the United Nations for an appraisal of the world economic situation as well as to serve the needs of the general public.

The present report analyses major changes in domestic economic conditions and in international trade and payments from 1950 to 1953, with special regard to developments in 1952 and 1953. A great many tables and statistics complete this carefully compiled publication.

UNITED NATIONS, DEPARTMENT OF DOMESTIC AFFAIRS, SECRETARIAT OF THE ECONOMIC COMMISSION FOR LATIN AMERICA. — *Economic Survey of Latin America* 1953, New York, 1954 Sales-no.: 1-1954 II.9.1., 246 pp.

This fifth economic survey of Latin America presented to the Secretary General of the United Nations gives a detailed analysis of the trends in the gross product, foreign trade and the monetary situation in the Latin American countries as well as a general outline of the main branches of production (agriculture, mining, industry, electric power, petroleum and forestry). This report has been enlarged in comparison with the preceding ones with a chapter on monetary problems and in the chapter on mining productions with sections dealing with coal and sulphur.

A. S. SILKE, M.COM. (HONS) (CAPE TOWN), C.A.(S.A.): *Income Tax in the Central African Federation (the Federation of Rhodesia and Nyassaland)* — Juta and Co. Ltd., Wijnberg 1954, 574 pp.

With the establishment of the Federation of Rhodesia and Nyassaland

it was necessary to integrate the taxation laws of the Colony of Southern Rhodesia and the Territories of Northern Rhodesia and Nyassaland. The first income tax laws of the Federation are the Income Tax Act 1954, The Income Tax (charging and amendment) Act 1954 and The Territorial Surcharges Laws.

In writing this book the author intends to explain to those interested how these Acts work. This is not done in a theoretical manner, but in accordance with practical examples and he has succeeded in every respect.

By its conception this book has become a good guide for the business man, the student, the tax adviser, in short for all those who have to plunge into the tax law of the Federation. The book is provided with a table of cases and an alphabetical register.

Tolley's Tax Publications, Compiled by KENNETH MINES, F.A.I.A., F.T.I.I. AND L. E. FEAVER, A.S.AA.., F.C.I.S., Chas. H. Tolley and Co. London.

Below we discuss a part of these publications. We are pleased to recommend each of these parts in the attention of our readers, as they are an excellent guide to obtain a general survey, be it in brief.

1. *Income tax manual.*
2. *Synopsis of profits tax.*
3. *Estate Duty Synopsis.*
4. *Synopsis of taxation in the Republic of Ireland.*
5. *Income taxes in the Channal Islands and Isle of Man.*

1. *Income Tax, Sur Tax e.c. Chart-Manual* 1954-1955 — 39th Edition — 120 pp.

The provisions of the Finance Act 1954, instituting the new investment allowances, altering the basis of assessment in the case of certain company reconstructions etc., are incorporated in this edition.

The general basis of the manual is, of course, the Income Tax Act 1952 and a useful feature is the inclusion at the end of the book, of a summary of the main amendments made by subsequent Finance Acts with cross-references showing where these changes are dealt with in detail, in the main body of the work. Full references are given for the judicial decisions, official concessions and treatment in practice which are quoted in support of statements made in the Manual, thus enabling users requiring further detailed information to obtain it immediately from their own libraries.

2. *Synopsis of Profits Tax* — 18th Edition, 1954, 7 pp.

This condensed but fully comprehensive Synopsis brings the subject up-to-date by incorporating the new provisions regarding investment allowances, legal decisions down to July 1954, extra-statutory concessions, and changes in practice. All aspects of the tax are covered and examples are included.

3. *Synopsis of Estate Duty*, 5th edition, 1954, 40 pp.

The new edition of this work is completely up-to-date and includes the alterations made by the Finance Act 1954. References to appropriate legal decisions are given and cover cases down to July 1954.

4. *Synopsis of Taxation in the Republic of Ireland.* 30th Edition, 1954, 14 pp.

This is a complete summary of Irish taxation law and practice, covering Income Tax, Sur-tax, Corporation Profits Tax and Double-Taxation Relief. Tables are incorporated showing rates and allowances in the Republic and the U.K. and the differences in treatment of various types of income in the two countries. The changes made by the Irish Finance Act 1954 are

fully covered and up-to-date examples of Double Taxation Relief calculations are included.

5. *Income Taxes in the Channel Islands and Isle of Man*, 5th Edition 1954, 22 pp.

Details are given of the law, tax-rates, allowances etc. for Jersey, Guernsey and the Isle of Man including amendments made by the relevant Acts, Law and resolutions down to, and including 1954. Particulars of Double Taxation Agreements, and details of Guernsey Unilateral Relief, are incorporated.

R. H. WILLIAMS A.I.B. — *The Electronic Office* — Gee and Company (Publishers) Limited, 27-28 Basinghall Street, London, E.C.2, 1955, 63 pp.

The author is carrying out part-time research into the practical use of Electronic Digital Computers for routine office work. The research was done in a personal capacity and the opinions expressed are his own. The book was written in June 1955 and the conditions are those that existed then.

JEAN BOYER DE LA GIRODAY: *Canadian Taxation and Foreign Investment* — Canadian Tax Foundation, 191 College Street, Toronto 2 B, Ontario, August 1955, 100 pp.

This book is published in the series Canadian Tax Papers. As Mr. Perry, director of the Foundation said in his preface, this publication may best be described as a study of the general terms of taxation governing investment in Canada by non-residents and governing investment in other countries by Canadians. Therefore a study very interesting and very important nowadays. The book is divided into five parts, in which are discussed the general background, Federal Income Tax, Provicial Taxes, Succession Duties and the conclusions drawn. Among other things the following subjects are dealt with in these parts: Canada's international private investment position, the background of direct taxation, taxation of foreign income of residents and of Canadian income of non-residents, special status companies, specific beneficial tax measures, and international double taxation. For those interested a very useful booklet.

E. R. BARLOW AND IRA T. WENDER: *Foreign Investment and Taxation* — Prentice Hall, Inc, New York, 1955, 481 pp.

The main purpose of this volume is to emplore the extent, to which effective use might be made of taxation to further the foreign economic policy of the United States by encouraging private investment in foreign countries by United States companies. Among the recommendations most frequently made to stimulate more investment have been suggestions for changes in taxation of foreign income. Therefore the main object in this book is to determine whether changes in United States taxation of foreign income are necessary to create an incentive for increasing direct private investment abroad.

The book is divided into five parts and appendices. In these parts the following questions are dealth with:

1. A detailed analysis of foreign investors and non-investors by size and industrial category.
2. The impediments that have limited United States foreign investment.
3. How and why companies do or do not invest.
4. The present method of United States taxation of foreign income, with proposals for changes in the tax laws, among which the authors propose, that for tax purposes a special class of domestic corporations be created called United States Foreign Business Corporations.

We recommend this beautifully got-up book with its very interesting contents in the attention of our readers.

The Practising Law Institute, 20, Vesey Street, New York 7, N.Y. published in 1954-1955 a very interesting series in the field of taxation, called *Fundamentals of Federal Taxation*, 1954 — *Revenue Code Edition*.

We received the following monographs:
1. *Items of Gross Income* by DAVID A. LINDSAY.
2. *Deductions and credits* by ALBAN J. PARKER.
3. *Accounting periods and accounting methods* by GEORGE G. BLATTMACHER AND RUSSELL S. KNAPP.
4. *Capital gain and losses* by BERTRAM HARNETT.
5. *Estates and Trusts* by ARTHUR M. MICHAELSON.
6. *The Gift Tax* by GEORGE A. CRAVEN.
7. *Preparation and Trial of Tax Cases* by ROBERTH ASH.

In these monographs the main aspects of the problems, mentioned above, are treated in a very conveniently arranged and clear manner. Where it is necessary, the text is illustrated by examples, while the most important case law and the regulations concerned are mentioned in footnotes.

It affords us a great pleasure to speak with appreciation of this series.

From the same editor we received in the series *Current Problems in Federal Taxation*.

1. *Estate Planning* by JOSEPH TRACHTMAN.
2. *Tax Aspects of Executives' Compensation* by BRADY BRYSON AND THOMAS V. LEFEVRE.
3. *Income Taxation of non-resident aliens and foreign corporations* by SYDNEY J. ROBBERTS AND WILLIAM W. WARREN.

Amongst other things the same applies here as we have said above about the series "Fundamentals of Federal Taxation" a book worthy of the reader's attention and appreciation.

Dr. H. BERIÉ und Dr. U. HENTRICH: *Lohnsteuerrecht* — Verlag Franz Vahlen GmbH, Berlin und Frankfurt a.M., 1955, 384 pp.

This work gives a detailed commentary on the German Wage tax. Like the other green-covered volumes published by Franz Vahlen, it is well got-up and composed in a convenient manner. The schematic survey in the introduction, that gives in a clear manner the alterations in the wage tax from January 1, 1955, is of great value.

Dr. H. BERIÉ: *Lohnsteuerrecht* (Textsammlung) — Verlag Franz Vahlen GmbH, Berlin und Frankfurt a.M., 424 pp.

This collection of texts forms an extremely valuable supplement on the commentary mentioned above.

Dr. BLÜMICH † and Dr. L. FALK: *Einkommensteuergesetz* — 7. neubearbeitete Auflage, Verlag Franz Vahlen GmbH, Berlin und Frankfurt a.M., 1955.

The first edition of this excellent book was published in 1935, wholly composed in that year by Dr. Walter Blümich. From a work with 359 pages it has now grown to a tome with 1394 pages.

Not only is the size great, but also the quality of the book is far above the average. Whoever occupies himself with more than superficial questions with respect to the German Income Tax, can consult this book with confidence.

It is a pity, that it is not possible to keep the book, which is not loose-leaf, up-to-date by the mobility of the tax legislation. But we should not consider

this work from that point of view, but as a work to give a fundamental analysis of the German Income Tax.

E. P. PLAGNOL: *Les impôts* — Chez l'auteur, 6, Rue Eastman, Paris (13e), November, 1955, 2e edition, Prix: Ffrs. 2300.— (for I.F.A.-members Ffrs. 2000).

It is a pleasure to announce the second edition of this excellent work (548 pages), the first edition (1952) of which, we welcomed already (in Bulletin VIII, p. 289) with gratitude.

Many things have changed in the French Tax Law since the first edition was published and although Mr. Plagnol wrote a supplement to bring his work up to the changed circumstances in 1954, this new complete edition fully answers the existing need of good up-to-date commentaries on the complicated French Tax Law.

The alterations the author had to make in his work concern especially the new Turnover tax (Taxe sur la valeur ajoutée), which came into force in July 1954. While in the first edition already a considerable part was devoted to the then existing "taxes sur le chiffre d'affaires" in this book the turnover tax is still more emphasized (190 pages). Also the important changes in the "droit de patents" are treated.

Furthermore the book gives a clear commentary on most of the other French taxes, especially the registration taxes (110 pages) and the direct taxes, and to subjects as collection and judicature.

A great practical improvement is in our opinion the insertion of a good alphabetical register which facilitates largely the handling of the book.

Dr. Dr. H. MEGOW in co-operation with B. HENCKEL (preface Dr.UHLICH.): *Erbschaftsteuergesetz* — 3. völlig neubearbeitete Auflage, Verlag Franz Vahlen, Berlin und Frankfurt a.M., 1955, 521 pp.

In spite of the reduction of the rates of the German succession duty by the Act of December 16, 1954, the circle of those interested in this tax has remained about the same. As the unlimited tax liability arises if the deceased or the heirs live in Germany and the limited tax liability as soon as there is German property in the sense of par. 77 Bewertungsgesetz, the tax is of great importance not only in Germany but also outside that country.

Dr. Dr. Megow gives a fundamental analysis of this tax, which is frequently by no means an easy tax.

By a very extensive index looking upon special points is greatly facilitated.

Dr. H. LANG in co-operation with M. KRÄMER: *Steuerliche Ausfuhrförderung. Ergänzung zum Kommentar zu den einschlägigen Vorschriften bei der Einkommensteuer und Umsatzsteuer*, — Ernst Gerdes Verlag, Preets in Holstein, May 1955, 145 pp.

In Bulletin vol. VIII p. 289 we reviewed the basic work "Steuerliche Ausfuhrförderung 1953". By reason of the alterations in the fields of export-facilities a supplement was necessary. As from January 1st, 1956 the facilities with respect to the income tax have been cancelled, the practical significance has diminished. This does not alter the fact, that the book, also containing international agreements, (Truppenvertrag and "Off-shore"-Steuerabkommen), which are attended with fiscal exportfacilities, retains its full value.

WILHELM GERLOFF und FRITZ NEUMARK: *Handbuch der Finanzwissenschaft* — zweite völlig neubearbeitete Auflage, 1. Band, J. C. B. Mohr (Paul Siebeck), Tübingen, 1952.

Should it be deemed desirable to get an impression of the development of the doctrine of public finance in the last 25 years there is no better method

than to compare the above-mentioned first part of the well-known Handbuch der Finanzwissenschaft with the first part of this work published in 1926.

The changes not only concern those who have re-modelled the book, but also the contents and the method, not to forget the size of the work.

In the first place the personal side. We again find the celebrated WILHELM GERLOFF, professor at Frankfort a.M.; FRANZ MEISEL has been replaced by FRITZ NEUMARK, also a professor at Frankfort a.M. In many contributions we still detect traces of Meisel's elaborate work. Among the numerous contributors we only come across two names of persons, who also contributed to the first edition, viz. Professor Dr. BERNARD LAMM, Marburg and Prof. Dr. TH. MAYER, Konstanz, both on the historical development.

As mentioned above, also the design and method have been changed and in more than one respect. The world of 1952 is different from the world of 1926. New problems came to the fore, because the doctrine of Public Finance has to take other aims into account than in 1926, and because the factual material has increased so much. More place has been given to the historical development and also to the administrative side and the means of control more attention has been paid. That is why the size of the work will increase while moreover a fourth part will be added in which the most important questions of the international doctrine of Public Finance will be treated.

The subject matter of the first part has been divided into 4 sections:

1. Wesen und Aufgabe der Finanzwirtschaft, ihre Stellung und Beziehungen zu anderen Wissenschaften (essence and task of the doctrine of Public Finance, its place and relations to other sciences).
2. Geschichte der öffentlichen Finanzwirtschaft (History of public economy).
3. Geschichte der Finanzwissenschaft (History of public finance doctrine).
4. Die öffentliche Haushaltwirtschaft (The doctrine of domestic economy).

The first and second edition can best be compared by placing the treated subjects side by side:

The first article by Gerloff about *"Grundlegung der Finanzwissenschaft"* remained the same as far as the design is concerned, but has been enlarged in nearly all its parts. Straight away in the first paragraph treating the literature it is striking how this has been extended since the first edition and has gained in richness.

The second part of Gerloff's article, treating "die öffentliche Finanzwirtschaft" has also been changed somewhat as far as the design is concerned but the essentials have remained, but everywhere completed in connection with newer ideas. The consideration (par. 25 old) about the "Finanzquellen, Vermögen, Ertrag, Einkommen" has been omitted.

New parts are:

HERBERT SULTAN: *Finanzwissenschaft und Soziologie*, in which among other things are mentioned considerations about "Interventionismus". From the late PROFESSOR ERNST BLUMENSTEIN an elaborate study has been inserted about *"die Rechtsordnung der öffentlichen Finanzwirtschaft"*, also new, in which the "Abgaben" take a large place, and are regarded from different sides: material, formal penal law etc.

WILHELM BICHEL treats: *"Finanzwissenschaft und Statistik"*, GUISEPPE UJO PAPI *"Die Beziehungen zwischen Finanzwissenschaft"*, EUGEN GROSZMANN on *"Finanzen und Währung"*.

These articles replace the old ones by ALEX. FREIHERR VON SPITSMÜLLER, OTTO MAYER, FRIEDRICH ZAHN und RUDOLF GOLDSCHEID.

The next two parts devoted to the history, begin with a new article by GERLOFF *"Ursprung und Anfänge öffentlicher Finanzwirtschaft"*, after that the already mentioned articles by Lamm and Mayer follow. FRITZ

TERHALLE gives a survey of the German *"öffentliche Finanzwirtschaft"* from the beginning of the 19th century till the end of the 2nd world war, URSULA K. HICKS of Great Britain from 1799-1949, HAROLD M. GROVES of the United States, MAX OUREAN of France (18th century till now).

Finanzwissenschaft.

In the sub-part concerning the history of Public Finance the following countries are treated:

Germany till the end of the 18th century by ANTON TAUTSCHER, and after 1800 by ERWIN VON BECKENRATH, Great Britain by FRITZ KARL MANN, France by MAX CLUSEAU, Italy by EMANNUELE MORSELLI, Scandinavia by CARSTEN WELLINDER.

In the fourth sub-part the first article is written by GERHARD CALM: *Haushaltplanning, Staatsbudget, Finanzplan und Nationalbudget,* JAN TINBERGEN and G. STUWEL: *Das Nationalbudget* and NEUMARK: *"Theorie und Praxis der Budgetgestaltung"*, a very elaborate article, which gives a survey of the classical and modern conceptions concerning this important subject.

The book is concluded with an article by KURT HEINIG about *"Haushaltskontrolle"*.

From the foregoing, succint as it may be, one gets the impression how rich the contents of this work are.

In the former edition, part I still contained two articles concerning the State Revenue and four about the general theory of taxation and retribution. These subjests have now been treated in the general part and will be discussed later on.

Many will use this elaborate work as a book of reference, and for this purpose it will render excellent services, especially by its references to other literature.

The two indexes (of authors and of the subjects treated) greatly increase the practical value of the work.

V

GERMANY

MASZNAHMEN ZUR GLEICHMÄSZIGEN UND GERECHTEN BESTEUERUNG DER EHEGATTEN UND ZUM AUSGLEICH DER STÄRKEREN STEUERLICHEN BELASTUNG DER ARBEITSEINKÜNFTE AUS NICHTSELBSTÄNDIGER UND SELBSTÄNDIGER ARBEIT.

VORSCHLAG DES BUNDESMINISTERS DER FINANZEN FÙR DIE REGELUNG DER EHEGATTENBESTEUERUNG

Die Neuregelung der Ehegattenbesteuerung musz nach den Vorüberlegungen folgende Voraussetzungen erfüllen:

a) Den Forderungen nach Gleichmässigkeit und Gerechtigkeit der Besteuerung objektiv entsprechen;
b) von den Steuerpflichtigen subjektiv als gerecht empfunden werden, also den soziologischen Gegebenheiten und den allgemeinen Auffassungen der Zeit entsprechen;
c) von der Verwaltung ohne Schwierigkeiten gehandhabt werden können;
d) für die öffentlichen Haushalte tragbar und in ihren Wirkungen der Wirtschaftslage angepasst sein.

Ausserdem sollte eine Neuregelung aus psychologischen Gründen nicht zu wesentlichen Belastungssteigerungen für namhafte Bevölkerungsteile, insbesondere der unteren Einkommenschichten, führen.

Diese Zielsetzungen lassen sich weitgehend verwirklichen, wenn man die Ehegattenbesteuerung wie folgt aufbaut:

1. Die Einkünfte bzw. die Bruttolöhne von Mann und Frau werden zusammengerechnet.
2. Dabei werden folgende Freibeträge gewährt:
   a) ein allgemeiner Freibetrag in Höhe von je 900 DM für Mann und Frau,
   b) Freibeträge für Kinder je nach Vorhandensein,
   c) Freibeträge für Sonderausgaben und Werbungskosten in Höhe von je 936 DM für Mann und Frau — soweit sie erwerbswirtschaftlich tätig sind und die Sonderausgaben und Werbungskosten nicht (z. B. im Vollzuge der Veranlagung) speziell ermittelt und abgesetzt werden,
   d) ausserdem ein Sonderfreibetrag
   für die Ehefrau als Hausfrau bei Vorhandensein mindestens eines Kindes, für das Kinderermässigung gewährt wird .....400 DM
   für die Ehefrau als Mithelfende in Höhe von 10 v.H. der Gemeinschaftseinkünfte, mindestens 400 DM, höchstens.....800 DM
   für die Ehefrau als Mitarbeitende in Höhe von 20 v.H. der Gemeinschaftseinkünfte, mindestens 400 DM, höchstens.....1600 DM.

Die Steuerbeträge sind auch bei Lohnempfängern — also in Fällen, in denen die Steuer gesondert für Mann und Frau an der Quelle erhoben wird —

ohne weiteres aus den entsprechenden erweiterten Lohnsteuertabellen ablesbar. (Wegen der verwaltungsmässigen Durchführung Dabei wird unterstellt, dass das Fraueneinkommen $^4/_{10}$, das Manneseinkommen $^6/_{10}$ ausmacht. Unebenheiten werden im Lohn-steuer-Jahresausgleich behoben.

Dieser Vorschlag wird unter dem Vorbehalt gemacht, dass ein besonderer Freibetrag für die mithelfende Ehefrau nur gewährt werden kann, wenn praktisch eine leichte Abgrenzung der mithelfenden Ehefrau gegenüber der reinen Hausfrau möglich ist. Sollte sich ergeben, dass eine solche Abgrenzung praktisch nicht durchführbar ist, so könnte nur ein einheitlicher Freibetrag für mithelfende Ehefrauen und für Ehefrauen mit mindestens einem Kind, für das Kinderermässigung gewährt wird, in Betracht kommen. Dieser Freibetrag müsste so bemessen werden, dass sich der durch die Neuregelung der Ehegattenbesteuerung insgesamt eintretende Steuerausfall nicht erhöht.

Soweit die Ehefrauen ausschliesslich als Hausfrau (mit Kind) oder als Mithelfende tätig sind, führt der Vorschlag zu einer eindeutigen Besserstellung im Vergleich zum heutigen Rechtsstand. Das gilt auch für den Fall, dass für mithelfende Ehefrauen und für Ehefrauen mit mindestens einem Kind, für das Kinderermässigung gewährt wird, ein einheitlicher Freibetrag angesetzt wird.

Für Ehen, in denen die Ehefrau als Mitarbeitende tätig ist, gehen die Steuerbegünstigungen, die durch die vorgesehenen Sonderfreibeträge ausgelöst werden, in den unteren Einkommensgruppen weit über den Umfang des amerikanischen Splitting hinaus. Bei Begrenzung des Sonderfreibetrages für mitarbeitende Ehefrauen auf höchstens 1600 DM tritt — unter Berücksichtigung eines erhöhten Werbungskosten-Pauschbetrages von 240 DM je Arbeitnehmer in Steuerklasse III/1 für Ehepaare mit beiderseitigen Einkünften aus nichtselbständiger Arbeit und einem gemeinsamen Bruttolohn von 12 872 DM eine Steuererhöhung um etwa 7 DM im Jahre gegenüber dem heutigen Rechtsstand ein. In Steuerklasse III/3 ergibt sich eine geringe Steuererhöhung erst bei einem gemeinsamen Bruttolohn von 15 672 DM, in Steuerklasse III/4 erst oberhalb eines gemeinsamen Bruttolohns von 17 672 DM, Die anliegenden Übersichten verdeutlichen an zahlreichen Beispielen die Auswirkungen des Vorschlages des Bundesministers der Finanzen für folgende Alternativen:

1. Ehefrau als Hausfrau (mit Kind)
2. Ehefrau als Mithelfende
3. Ehefrau als Mitarbeitende,

und zwar für den Fall, dass

a) beide Ehepartner Einkünfte aus selbständiger Tätigkeit beziehen,
b) der Ehemann Einkünfte aus selbständiger Tätigkeit und die Ehefrau Einkünfte aus unselbständiger Tätigkeit bezieht,
c) beide Ehegatten Einkünfte aus unselbständiger Arbeit beziehen.

Im übrigen würde auch ohne die Berücksichtigung einer Erhöhung des Werbungskosten-Pauschbetrages bei Bruttolöhnen bis zu 12 000 DM eine nennenswerte Erhöhung gegenüber der bisherigen Belastung — im Gegensatz zu dem Vorschlag des Splitting — nicht eintreten.

Die Tabellen zeigen, dass sich Schlechterstellungen gegenüber dem heutigen Rechtszustand nur in solchen Fällen ergeben, in denen die Ehefrau als Mitarbeitende tätig ist, und dass auch in diesen Fällen eine Schlechterstellung erst für Gemeinschaftseinkünfte von mehr als rund 12 000 DM wirksam ist.

Der bei Verwirklichung des Vorschlags des Bundesministers der Finanzen eintretende Steuerausfall ist nach den Einkommensverhältnissen der Gegenwart auf etwa 400 bis 450 Millionen DM zu beziffern; diese Schätzung geht davon aus, dass es gelingt, den Steuerfreibetrag für mithelfende Ehefrauen im wesentlichen auf die Bevölkerungskreise zu beschränken, die bei der Volkszählung des Jahres 1950 ihre Ehefrauen in der Statistik als Mithelfende bezeichnet haben. Es ist ferner unterstellt, dass verwitweten und

geschiedenen Ehefrauen nach einer Übergangszeit die Sonderfreibeträge für mithelfende und mitarbeitende Ehefrauen nicht mehr gewährt werden.

Bei Durchführung des Splitting nach amerikanischem Vorbild würde ein Steuerausfall von mehr als einer Milliarde eintreten. Die besondere Höhe dieses Steuerausfalls erklärt sich aus der Anwendung der in diesem Verfahren liegenden Steuervergünstigung auf sämtliche verheirateten Einkommensteuerpflichtigen, also auch auf Steuerpflichtige, deren Ehefrauen als Hausfrauen oder als Mithelfende tätig sind.

Die Durchführung eines Splitting in eingeschränkter Form würde einen Steuerausfall von etwa 1000 Millionen DM verursachen.

Die vorgeschlagene Regelung ist in ihren Voraussetzungen und in ihren Wirkungen für jedermann klar überschaubar. — Grundsätzlich könnte man an die Stelle der Freibeträge auch ein veredeltes Splitting setzen. Es gibt aber kein Splitting, das den unteren Einkommensgruppen — bei Tätigkeit der Ehefrau als Mitarbeitende — so weitgehende Vergünstigungen gewähren könnte, wie sie durch die im Vorschlag des Bundesministers der Finanzen vorgesehenen Freibeträge bewirkt werden.

Quelle: Drucksache 1866, *Deutscher Bundestag, 2. Wahlperiode* 1953.

U.S.A.
UNITED STATES-UNITED KINGDOM DEATH TAX CONVENTION

Treasury Decision 5565, *C.B.* 1947-1, 125, *Rev. Rul.* 55-701
Section 82.104: *Situs of property.*

In the application of the United States-United Kingdom Death Tax Convention, a partner's share in a copartnership is situated where the partnership business is carried on.

Advice has been requested concerning the situs, under the death tax convention between the United States and the United Kingdom, T.D. 5565, C.B. 1947-1, 125, of a share in a partnership conducting a business in the United States.

At the time of death, the decedent was a British subject domiciled in England and a partner in a copartnership organized in and doing business in the State of New York.

In resolving this question, three possible positions are considered: (1) that his interest constitutes a debt and, consequently, under the terms of Article III (2) (c) of the treaty is situated at the place of decedent's domicile; (2) that the situs of his interest is where the individual items of the partnership assets are located; and (3) that the situs of a partner's interest is where the business is carried on.

Article III (2) (c) of the treaty provides that debts, other than the forms of indebtedness for which specific provision is otherwise made in the treaty, shall be deemed situated at the place where the decedent was domiciled at the time of death. This is not a situs rule in the true sense, but constitutes a special exemption from taxation based on situs of property in the taxing jurisdiction. This special exemption is directed to investments predominantly characterized by the debtor-creditor relationship and there was no intention to encompass in this special exemption proprietary interests such as characterize a share of stock or partnership interest.

Although on dissolution of a partnership a partner is entitled to share in what would remain of the partnership assets after its liabilities are satisfied, and such interest constitutes a chose in action, this does not adequately describe the interest for death tax purposes. Under the Federal estate tax statute (section 2033 of the Internal Revenue Code of 1954), such property is subjected to tax under the clause reading "the gross estate shall include the value of all property (except real property situated outside of the United States) to the extent of any interest therein of the decedent at the time of his death". A partnership interest at the time of a partner's death is not in the nature of a debt although it may accrue as a debt after death.

Paragraph (2) of Article III of the treaty provides in effect that as to any property not falling within the specific situs rules of the article situs shall be determined, in the case of a deceased domiciliary of the United Kingdom, by the law in the United States, and in the case of a deceased domiciliary of the United States, by the law in the United Kingdom. No specific situs rule is provided in this article for a partnership interest.

The second possible position heretofore mentioned (consideration of the individual items of the partnership assets) has some support in State court decisions, notably a decision by the Supreme Court of Montana *In re Perry's*

Estate, 192 P. 2d 532, 121 Mont. 280. However, this decision does not have the support of the weight of authority and cannot be regarded as the Federal rule.

In the decision of the United States Supreme Court, *Blodgett, Tax Commissioner of State of Connecticut*, v. *Silberman et al.*, 277 U.S. 1, it was held that for the purpose of the application of an inheritance tax by the State of Connecticut a deceased partner's interest constitutes intangible personal property. In the Blodgett case the decedent was domiciled in Connecticut and a partner of a New York partnership. A considerable portion of the partnership assets consisted of real estate located in New York. Under the law, the Connecticut inheritance tax was not applicable to real estate located outside Connecticut and the question at issue was whether the decedent's interest was intangible property as a share of the partnership or whether a portion of it consisted of real estate located in New York. Although this decision does not directly hold that the situs of a partnership interest is where the partnership business is carried on, it is inherent in the decision that the situs of the partnership interest is not to be determined by the location of the underlying assets of the partnership.

In *Salomon Bros & Hutzler* v. *Pedrick*, 105 Fed. Supp. 210, the United States District Court for the Southern District of New York, commenting upon the nature of a partner's interest in a partnership, said: "It also seems abundantly clear that under the New York statute, the individual partner has no fractional right in specific partnership property which he alone can assign. He is incapable of making an individual transfer of a fractional interest in each security held by the firm. * * * The law in New York is settled that a partner is not the owner of a fractional or undivided interest in each partnership asset." The New York partnership law is stated to follow the Uniform Partnership Act. The court said it is clear that "the rights of each individual partner in specific partnership assets, referred to in the statute as 'tenant in partnership' fall short of what would ordinarily be regarded as individual ownership even of an undivided interest in specific assets".

In *Commissioner of Stamp Duties* v. *Salting* (1907), A. C. 449, it was held that for the purpose of the New South Wales death duty situs is where the business was carried on at the time of the deceased partner's death. In this case the deceased partner was domiciled in England but was a partner in the business of graziers and sheep farmers carried on in the State of New South Wales. It was held that the New South Wales tax was properly applicable on the basis of situs of property in that State. This is the leading case directly in point on the subject, establishes the British position, and is to be given weight in establishing our position.

In view of the foregoing, it is held that in the application of the United States-United Kingdom Death Tax Convention the situs of a partnership interest is where the business is carried on.

Source: *Internal Revenue Bulletin*, 1955, *No.* 47.

COMMONWEALTH COMMITTEE ON TAXATION

INCOME TAX ASSESSMENT ACT 1936-1949

REFERENCE NO 18: DEPRECIATION

The Committee's Report to the Treasurer, The Rt. Hon. Sir Artur Fadden, K.C.M.G., M.P., Dated 16th March, 1954

SECTION 1. — INTRODUCTION

The terms of Reference No. 18: *Income Tax Assessment Act* 1936-1949, sections 54-59 — Depreciation, are as follows: —

Whether it is necesary or desirable that the provisions of the *Income Tax Assessment Act* 1936-1949, relating to depreciation should be amended or repealed, or any new provision enacted, with a view to the removal of anomalies, the clarification of the statutory provisions, or the simplification of administrative procedure in connexion therewith.

2. A summary of the principal provisions relating to depreciation is as follows: —

(*a*) To provide a deduction in respect of property, being plant or articles used for the purpose of producing assessable income, and to define plant.
(*b*). To specify the basis of depreciation and the method of calculation.
(*c*) To set out special depreciation allowable to primary producers.
(*d*) To specify the balancing adjustments to be made where depreciated property is disposed of, lost, or destroyed, and the depreciation allowable to a person acquiring such property.

3. When the subject matter was referred to the Committee, the depreciation provisions also included a special depreciation allowance on property acquired after 30th June, 1945, usually known as Initial Depreciation. The relevant provision — Section 57a — was repealed by Act No. 28 of 1952.

4. The Committee received many submissions relating to depreciation. These submissions indicate that, in addition to some minor revision of the present provisions, an extension of the scope of depreciation is sought in two directions, namely —

(*a*) to widen the definition of plant so as to include such wasting assets as patents, drawings, models, designs, copyrights, franchises, &c.; and
(*b*) to allow depreciation on industrial and commercial buildings.

SECTION II. — DEPRECIATION PROVISIONS

5. Section 54 is the general provision permitting the deduction of depreciation from assessable income. Broadly, depreciation is allowed on "property, being plant or articles" owned by a taxpayer, and used by him for the purpose of producing assessable income. Sub-section (2) contains a definition of plant, but there is no definition of articles.

Basis of Depreciation and Method of Calculation

6. Three provisions deal with the basis of depreciation and the calculation of depreciation, as follows: —

(*a*) Section 55 (1) provides that an estimate shall be made by the Commissioner of the effective life of a unit of property, assuming that it is maintained in reasonably good order and condition, and that the annual depreciation per centum shall be fixed accordingly.

(*b*) Section 56 (1) provides that the annual depreciation shall be the percentage so fixed of —
(i) the depreciated value of the unit at the beginning of the year of income — known as the "diminishing value" or "reducing balance" method; or
(ii) where the taxpayer so elects — the cost of the unit — known as the "prime cost" or "straight-line" method.

(*c*) Section 57 provides that, except as regards the election for prime cost mentioned, the method of calculating depreciation must not be altered except with the leave of the Commissioner.

7. To meet the requirements of section 55 (1) the Commissioner publishes a "Schedule of Rates of Annual Depreciation Allowable for Assessment Purposes". The rates shown in the Schedule are those for plant of average type used under normal working conditions.

8. It was suggested to the Committee that other methods of calculation of depreciation should be permitted.

9. Under the present law, a taxpayer may submit to the Commissioner the facts of any special circumstances affecting his plant, and this may result in the fixing of a higher rate of depreciation if the Commissioner agrees that the estimated life of the particular machinery is less than normal. A dissatisfied taxpayer may have the Commissioner's decision reviewed by a Board of Review. Taxpayers' rights in exceptional cases are protected in this manner.

10. The Committee considers that the present methods of calculation of depreciation should be continued.

Primary Producers

11. The Act includes special depreciation provisions relating to primary producers, as follows: —

(*a*) The definition of plant in section 54(2) includes fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits.

(*b*) Section 57aa provides a special depreciation allowance to primary producers on property acquired from 1st July, 1951, to 30th June, 1955.

(*c*) Section 57ab specifies the depreciation allowable on property used for primary production in the Northern Territory.

12. For some years depreciation was not allowed on structural improvements on poultry farms, and the Commissioner's practice in regard thereto was upheld by the Board of Review (5 C.T.B.R. Case 44). This decision was reversed by a later decision (15 C.T.B.R. Case 46) in which a Board held that poultry farming is an agricultural pursuit.

13. Notwithstanding this later decision, the Committee considers that it would be desirable to clarify the position by using the words "primary production" (which term specifically includes poultry farming), instead of the words "agricultural or pastoral pursuits", in section 54 (2) (*b*), and recommends accordingly.

Depreciation under Commonwealth and State Acts

14. Section 58 is a special provision which applied to assessments for years prior to the introduction of uniform income tax in 1942. Where the depreciated value for Commonwealth purposes exceeded that for State purposes, the Commissioner was empowered to allow a further amount of depreciation to arrive at a common depreciated value for both Commonwealth and State purposes.

15. Having regard to the period which has elapsed since any State values applied, the provision seems to be redundant and the Committee recommends that it be repealed.

Disposal, Loss or Destruction of Property

16. Section 59 is the general provision under which a balancing adjustment is made upon the disposal, loss or destruction of depreciated property. Where the consideration receivable, if any, is less than the depreciated value, a further amount of depreciation is deductible as a "balancing allowance". Where such consideration exceeds the depreciated value, the excess, to the extent that it has been allowed as depreciation, is included in the assessable income as a "balancing charge".

17. The Committee supports the basic principle of sub-sections (1) (balancing allowance), (2) (balancing charge), and (3) (meaning of "consideration receivable"), of section 59, and does not recommend any amendment thereto.

Loss or Destruction of Property in War-time

18. Subsections (2a), (2b) and (2c) were inserted in section 59 by Act No. 50 of 1942 to provide for special treatment of the consideration receivable on depreciated property lost or destroyed during the war. Broadly, these sub-sections provide that, if the taxpayer so elected, any amount by which the consideration receivable upon the loss or destruction of the property exceeded the depreciated value could be deducted from the value of other property subject to depreciation. The practical effect was that, instead of taxing a part of any insurance recoveries in the year of receipt, the depreciated value of plant, &c. was reduced by a corresponding amount, resulting in a reduced depreciation allowance over the life of the remaining plant and/or the plant acquired to replace that lost or destroyed.

19. The Committee considers that this principle should be retained in the Act, notwithstanding the official cessation of the war on 28th April, 1952. The exaction of tax on that part of the consideration included in the assessable income as a balancing charge reduces the funds available for replacement of property when they are needed for that purpose.

20. The Committee recommends that section 59 be amended to enable the consideration receivable on depreciated property lost or destroyed to be dealt with in the same manner as during war-time.

Other Depreciation Provisions

21 Other depreciation provisions mentioned in passing are section 59aa, sections 59a-59e and sections 60-62.

22. Section 59aa deals with the disposal of depreciated property on a change of ownership of the property, or on a change of the interest of persons in that property, e.g., the formation or dissolution of a partnership, or a variation in the constitution of a partnership or in the interests of the partners.

23. Sections 59a-59e are war-time provisions inserted by Act No. 50 of

1942 to allow special depreciation in relation to property in consequence of use in connexion with the war which ended on 28th April, 1952.

24. Section 60 provides that a person acquiring depreciated property shall not be entitled to any greater deduction for depreciation than the previous owner, unless the Commissioner is of the opinion that the depreciation allowance should be based on the actual consideration given.

25. Section 61 authorizes the Commissioner to allow such depreciation as is proper on property used only partly for the purpose of producing assessable income.

26. Section 62 describes the depreciated value of a unit of property as being, broadly, its cost reduced by the total depreciation already allowed.

SECTION III. — THE DEPRECIATION SCHEDULE

27. The "Schedule of Rates of Annual Depreciation Allowable for Assessment Purposes" is published as Income Tax Order No. 1217, and is revised from time to time.

28. The Depreciation Schedule is arranged according to industry and according to items of plant. Generally, the annual rates of depreciation range from about 5 per cent. to 20 per cent., but lower rates are fixed for durable items, such as machine foundations, while higher rates are fixed for items with a short effective life, such as commercial aircraft. There are as many as seventeen annual rates ranging from 50 per cent. to 1 per cent. Thus they take into account an effective life ranging from two years to 100 years.

29. Submissions made to the Committee concerning depreciation included suggestions that —

(*a*) separate rates of depreciation should be fixed for —
  (i) the diminishing value method; and
  (ii) the prime cost method;

(*b*) provision should be made for revision of the rates if the effective life changes after they are fixed; and

(*c*) a single rate of depreciation should be fixed for all plant used in each particular class of business.

Separate Rates of Different Methods of Calculation

30. The suggestion that separate rates of depreciation should be fixed for the diminishing value method and the prime cost method has much to commend it. A point in its favour is that the present rates are in harmony with the effective life of plant, &c., estimated by the Commissioner, only if the prime cost method is adopted.

31. This suggestion may be illustrated by comparing the prime cost method at 10 per cent. per annum with the diminishing value method of 10, 12½ and 15 per cent. per annum, as follows: — see table (page 128)

32. The Committee recommends for consideration the desirability of fixing separate rates of depreciation for the prime cost method and the diminishing value method.

33. The Committee further recommends that, to coincide with any such adjustment of the rates of depreciation, the Act be amended to grant taxpayers one option of changing from the prime cost method to the diminishing value method. Any subsequent change in the basis of calculation should be subject to the approval of the Commissioner.

—	Prime Cost Method 10%	Diminishing Value Method		
		10%	12½%	15%
	£	£	£	£
Cost	1,000	1,000	1,000	1,000
Year 1	100	100	125	150
	900	900	875	850
Year 2	100	90	109	128
	800	810	766	722
Year 3	100	81	96	108
	700	729	670	614
Year 4	100	73	84	92
	600	656	586	522
Year 5	100	66	73	78
	500	590	513	444
Year 6	100	59	64	67
	400	531	449	377
Year 7	100	53	56	57
	300	478	393	320
Year 8	100	48	49	48
	200	430	344	272
Year 9	100	43	43	41
	100	387	301	231
Year 10	100	39	38	35
	—	348	263	196

Revision of Rates during Life of Plant

34. The suggestion mentioned in paragraph 20 (*b*) is that provision should be made for a variation in the rates of depreciation, should circumstances warrant. By virtue of section 55(1) of the Act, the effective life is estimated by the Commissioner, and the annual rate of depreciation is fixed in the first calculation of depreciation to be allowed in respect of any unit of property.

35. The rates contained in the Depreciation Schedule published by the Commissioner are "those fixed for plant of average type used under normal working conditions" and "in respect of . . . plant used under abnormal working conditions, other rates may apply". It is known to the Committee that special rates have been fixed by the Commissioner where special conditions obtain. However, the point in the representations is that there is no legislative authority to revise the rates once the first calculation is made.

to be continued

I

A BIRD'S EYE VIEW OF AUSTRALIAN INCOME TAX

by

J. A. L. GUNN, C.B.E., F.C.A. (Aust.)

Australian income tax is imposed by a Taxing Act which states the rates of tax payable on a taxpayer's "taxable income". A separate Act is passed for each fiscal year. The rules for ascertaining the amount of "taxable income" are contained in another Act called the Assessment Act. The present Assessment Act was passed in 1936, but has been subjected to considerable amendment since then, always one, often two, and sometimes three Amending Acts being passed each year.

Income tax is imposed on individuals by a single step system beginning with 1 d. in £ on the first £100 of taxable income and ending with a rate of 13s.4d. in £ on that portion of the taxable income which exceeds £16,000. Income from personal exertion and income from property are taxed at the same rates.

Generally, companies are taxed at the following rates: —

Private Companies

4s. in £ (20%) on the first £5,000 of the Company's taxable income
6s. in £ (30%) on the remainder of the taxable income

Non-private Companies

6s. in £ (30%) on the first £5,000 of the company's taxable income
7s. in £ (35%) on the remainder of the taxable income

A private company is, however, also subject to tax at the flat rate of 10s. in £ on its undistributed income. In calculating the amount of such undistributed income, a deduction is allowed from the taxable income of, inter alia, (a) the ordinary tax payable on its taxable income as above; (b) a liberal retention allowance; and (c) dividends paid by the company, including excess distributions, if any, of previous years.

There is double taxation of company profits and dividends paid thereout. Companies are subject to ordinary income tax on the full amount of their taxable incomes without any deduction of dividends paid. Australian individual shareholders, and all ex-Australian shareholders (whether companies or individuals) are taxed on dividends received without recognition of the prior tax paid by the companies on the profits out of which the dividends are paid. Only resident companies receive a rebate of tax on dividends received by them. The rebate is at the average rate of ordinary income tax borne by the resident shareholder company, so that, broadly speaking, where there is a chain of resident companies, tax at the above rate is levied on the operating company's profits; no tax is payable on the dividend as it passes through the intervening chain of holding companies; but tax is again levied when the dividend is finally paid to an individual shareholder, whether resident or non-resident.

The great majority of Australian taxpayers are salary and wage earners, from whose weekly or other periodical remuneration tax instalments are deducted at the source. The salary earner, in common with all other taxpayers, lodges an annual return of his income and deductions; tax is assessed on his annual taxable income at the appropriate rate; a credit is given in the assessment for the tax instalments so deducted. Because of claims for medical expenses and other concessional deductions, these tax instalments often total a little more than the actual tax payable as disclosed by the annual assessment, in which case the difference is refunded to the taxpayer.

The Assessment Act allows a considerable number of concessional deductions in recognition of a taxpayer's family and other responsibilities. The following is a brief outline of these deductions.

(a) Rates and taxes on the taxpayer's private residence.
(b) Gifts to hospitals, benevolent institutions, universities, and other special funds and institutions.
(c) Wife — £130.
(d) Child under 16 years — one child £78; each other child — £52.
(e) Student child between 16 and 21 years — £78.
(f) Invalid relative — £78.
(g) Daughter-housekeeper of widow or widower — £130.

(h) Housekeeper of taxpayer, also caring for child under 16 years (d) or invalid relative (f) — £130.
(i) Parent of taxpayer — £130 for each parent totally maintained by taxpayer.
(j) Medical expenses — actual expenditure but subject to maximum allowance of £150 for taxpayer and each dependant.
(k) Dental expenses — included in medical expenses but subject to maximum allowance of £30 for taxpayer and each dependant.
(l) Funeral burial or cremation expenses of dependant — actual expenditure but subject to maximum allowance of £30 for each funeral.
(m) Life assurance premiums, and certain other like specified payments — actual expenditure but subject to overall maximum allowance of £200 per annum.
(n) Education expenses — actual expenditure but subject to maximum allowance of £75 for each child.

It would be of interest to compare the tax burden of a family in another country with that of an Australian family living in comparable circumstances. There are, however, real difficulties in the way. The only satisfactory method is that of direct comparison, i.e. to find what income is required to keep both families in the same standard of living. I believe that the average Australian income of a man supporting a wife and two children lies between £800 and £900 a year. This income will keep the family a little distance from the bread line, but will do no more than provide sufficient shelter, food and raiment and meet the dozens of other petty demands on the family purse.

An Australian taxpayer would pay the following sum in income tax on a salary of £900: —

Assessable (gross) income		£900
Less — Concessional deductions: —		
Wife	£130	
First child	78	
Second child	52	
Medical expenses (say)	10	270
Taxable (net) income		£630

Income tax on £630 is £43:17:0. In the above case, the taxpayer's wife would receive child endowment at the rate of 5s. per week for the first child and 10s. per week for the second child (this is the reason for the variation in the concessional deductions for children). Thus, the family receive back from the Commonwealth Government £39 for the year by way of child endowment. In effect, the annual burden of Commonwealth tax on a family deriving an income of £900 is slightly less than £5 (£43:17:0 — £39), plus the amount of indirect taxation by way of customs, excise and sales tax contained in the price of goods and services bought by the family.

A representative Australian middle-income family group is that consisting of a husband, wife and two wholly supported children, where the husband's income is £2,000 a year. Such a family can live in modest comfort, paying off their home by modest instalments and owning a motorcar. With care, there will be enough to provide for adequate life assurance and for a small surplus. The Australian income tax payable by the head of such a family is as follows: —

Gross income		£2,000
Less — Concessional deductions: —		
Wife	£130	
First child	78	
Second child	52	
Medical expenses (Maximum £150 per member of family)	30	
Life assurance premiums (Maximum allowance £200)	100	
Education allowance		
First child £120		
Maximum allowed	75	
Second child	10	475
Taxable income		£1,525

The Australian tax payable on a taxable income of £1,525 is £232:12:0 or approximately 11½ per cent on a gross income of £2,000.

The Australian Assessment Act begins with the "assessable" (i.e. the gross) income and allows certain specific deductions. The net

result is termed the "taxable" income. Unlike most other income tax legislations, the Australian Act does *not* begin with the net profit as determined in accordance with business and accountancy "principles" and then "adjust" this profit by denying a deduction of certain classes of expenditure. As the Act brings to account income actually "derived" in the year of income and allows a deduction only of losses and outgoings actually "incurred", there is often a wide gap between the resultant "taxable income" of a business, on which tax is paid, and the "profit" disclosed in its profit and loss account.

Section 25(1) of the Australian Assessment Act provides as follows: —

> "The assessable income of a taxpayer shall include —
>
> (a) where the taxpayer is a resident —
> the gross income derived directly or indirectly from all sources whether in or out of Australia; and
>
> (b) where the taxpayer is a non-resident —
> the gross income derived directly or indirectly from all sources in Australia,
> which is not exempt income."

Thus, residents of Australia are taxed on the whole of their income whether derived from Australian or ex-Australian sources, except where such income is specifically exempted by the Act. Section 23(q) does specifically exempt "income derived by a resident from sources out of Australia, where that income is not exempt from income tax in the country where it is derived, or where the taxpayer is liable to pay royalty or export duty in any country outside Australia in respect of goods from the sale of which the income is derived".

However, as an example of inconsistency, the Act, notwithstanding s. 23(q), specifically taxes ex-Australian dividends derived by a resident. Thus, if a resident of Australia derives interest, rent, or business profits from abroad, and this income is taxed in the country of source, the income is not subject to Australian tax. On the other hand, ex-Australian dividends derived by a resident are subject to Australian tax, notwithstanding that those dividends have been taxed in the country of source, but, to alleviate such

double taxation, Australia grants a rebate of the ex-Australian tax paid on the dividends (s. 45).

Non-residents are assessable only in respect of income derived from sources in Australia. The Act deems certain income to be derived from sources in Australia. For example, interest upon money secured by mortgage of any property in Australia is deemed to be derived from sources in Australia. An exception exists where (a) the interest is paid outside Australia; (b) to a non-resident; (c) on debentures; (d) issued outside Australia; (e) by a company (s. 25(2)). All five conditions must be observed. Again, dividends paid to a non-resident are assessable to Commonwealth income tax to the extent to which the dividends are paid out of profits derived by the company from sources in Australia (s. 44(1) (b)). This is so, even if the company itself is a non-resident and the shares are situated on an ex-Australian register.

The Act includes in a taxpayer's assessable income certain classes of receipts, some of which would not be considered as income in ordinary parlance. Examples are profits arising from the sale by the taxpayer of any property acquired by him for the purpose of profit-making by sale, whether or not as part of the proceeds of a trade, or an adventure in the nature of trade (s. 26(a)); proceeds of sale of trading stock included in a disposal sale of a business (s. 36); bonus shares arising out of the capitalization of trading profits, or capital profits — except as the result of revaluation of capital assets (s. 44); distributions by a liquidator to the extent to which they represent income derived by the company (s. 47).

In calculating the taxable (net) income of a taxpayer, the total assessable (gross) income derived by him during the year of income (normally year ending 30 June) is taken as a basis, and from that total there is deducted all allowable deductions specified in the Act (s. 48).

Section 51 of the Act sets out the generic principle of the deductions allowable to all taxpayers. Later sections contain a number of specific deductions, some of which are clearly within s. 51, but are stated with precision, while other deductions such as those relating to certain classes of capital expenditure, would not be allowable under the general provisions of s. 51. This section reads as follows: —

(1) All losses and outgoings to the extent to which they are incurred in gaining or producing the assessable income, or are necessarily incurred in carrying on a business for the purpose of gaining or producing such income, shall be allowable deductions except to the extent to which they are losses or outgoings of capital, or of a capital, private or domestic nature, or are incurred in relation to the gaining or production of exempt income.

(2) Expenditure incurred or deemed to have been incurred in the purchase of stock used by the taxpayer as trading stock shall be deemed not to be an outgoing of capital or of a capital nature".

It will be seen that the section perpetuates the age-old distinction between "capital" and "income" expenditure. The distinction is a false one; the postage stamp and the electronic machine would both be consumed in the production of income, but at different rates of consumption, so that the question is merely one of degree, not of difference in kind. The art of accounting is to "match" expenditure, whether of long or brief duration, against income derived, as the asset or service, representing that expenditure, is consumed in the course of producing that income.

The legislature does recognise that certain so-called "capital" assets are so consumed, but it prefers to write its own rules as to how and when the relevant expenditure should be allowed as a deduction, if at all. It does not leave the task to the taxpayer or his accountant because of the danger that the art of matching costs and income might be over-infused with poetic imagination.

An example of this poetic fancy recently occurred in the United States of America: —

The United States Internal Revenue Code 1954 contains two new sections, which at the time of their introduction were described as minor adjustments to bring a taxpayer's taxable income more closely into line with the accounting concept of net profit. Section 452 deals with pre-paid income, and permits certain income to be spread over a period — generally six years. Section 462 relates to reserves for "estimated expenses". The taxpayer may elect to have a deduction during the current year of an estimated expense "part or all of which would (but for s. 462) be required to be taken

into account for a subsequent taxable year" but "which is attributable to the income of the taxable year or prior taxable years for which an election under s. 462 is in effect" and "which the Secretary or his Delegate is satisfied can be estimated with reasonable accuracy". A typical example of such accrued expenditure is holiday pay.

When these measures were under consideration, the Senate Committee estimated that the concessions would mean a revenue loss of less than $50 million. This estimate of the cost of the "minor adjustments" seems to have been accepted by the U.S. Treasury and other interested governmental departments. It now transpires that the minor $50 million adjustments will cost the Revenue at least $1,000 million and is likely to be nearer to $2,000 million, and the Secretary of the Treasury has asked that ss. 452 and 462 be repealed retrospectively.

The Commonwealth legislature has a tender solicitude towards our great primary industries of grazing, farming and mining. Graziers and farmers are allowed an outright deduction of many items of capital expenditure such as, for example, the cost of wire and wire-netting to protect properties from the ravages of animal pests, including rabbits and wild dogs (s. 76); expenditure on the destruction of indigenous timber on virgin land; the cost of constructing dams, sinking bores and other structural improvements created for purposes of water conservation and distribution. Again, the primary producer is granted a depreciation allowance on buildings and other structural improvements, a concession not generally granted to other classes of taxpayers.

The mining industry is granted a deduction of capital expenditure on plant, and on development of the mining property. The taxpayer has the right either to claim the whole of such expenditure in the income year in which it is incurred or to receive a sinking fund deduction spread over the estimated life of the mine. Owners are also allowed a sinking fund deduction in respect of expenditure on housing and amenities provided for their employees and dependants.

The Commonwealth Act grants a taxpayer a depreciation allowance in respect of plant owned by him and used by him for the purpose of producing assessable income. The Commissioner is

charged with making an estimate of the effective life of a unit of plant, and the annual depreciation is fixed accordingly. Provision is made for a balancing charge or allowance where plant is disposed of, lost or destroyed. Thus, if the amount, if any, received on disposal is less than the depreciated value (cost, less previous depreciation allowances) the deficiency is allowed as a deduction to the taxpayer in the year of disposal. Conversely, if the sum received on disposal exceeds the depreciated value, the excess (limited to the total of depreciation allowed in previous assessments) is included in the taxpayer's assessable income of the year of disposal.

True to its heading, this article purports to give no more than a bird's eye view of the several hundred sections of our Assessment Act. Nevertheless, it is hoped that those interested in this country, and, in particular, the many thousands of citizens of The Netherlands we hope to welcome to our shores, will be provided with a broad picture of the Australian income tax code.

INVESTMENT OF FUNDS IN AUSTRALIA BY OVERSEAS COMPANIES BEING RESIDENTS OF COUNTRIES WHICH DO NOT HAVE RECIPROCAL AGREEMENTS WITH AUSTRALIA FOR THE AVOIDANCE OF DOUBLE TAXATION

by

CHARLES J. BERG, F.A.S.A., A.C.A.A., A.C.I.S.

Matters dealt with in this Report:—

(1) General scheme of Australian Taxation of Income of Companies.
(2) Definition of Australian resident Company.
(3) Definition of Private Company.
(4) Taxation of private companies — including meaning of
  (a) Sufficient Distribution
  (b) Personal Exertion Income
  (c) Property Income
(5) Taxation of non-private companies:
  (a) Resident
  (b) Non-Resident
(6) Rebate of tax on dividends received by resident companies.
(7) Calculation of Australian taxes payable under various schemes of investment in Australia, with comments.
(8) Comparative table of taxes payable under above schemes.
(9) Comparative table showing percentage rate of Australian earnings required to give a return of 10% on capital after deduction of Australian tax.
(10) Conclusion.

(1) THE GENERAL SCHEME OF AUSTRALIAN TAXATION OF INCOME OF COMPANIES:

The general scheme of Australian Income Tax legislation is to levy tax on Companies as follows:

(a) in the case of a Company resident in Australia — on its net income, i.e. the gross income derived from all sources (i.e. both Australian and Overseas Income) less allowable deductions. These deductions consist of the revenue expenditure of the Company, so that in the case of a Trading or Investment Company the taxable income would normally agree with the Net Profit as shown in the Accounts.
(b) in the case of a Company not resident in Australia — on its net income from Australian sources only.

(2) A RESIDENT COMPANY:

A resident Company is defined under the Australian Income Tax Act as a company —

(a) which is *incorporated* in Australia wherever the head office or control may be situated, and whether or not carrying on business in Australia, or
(b) which, though not incorporated in Australia, carries on business in Australia, *and* has either —
  (i) its central management and control there, or
  (ii)its voting power controlled by shareholders who are residents of Australia.

In arriving at the rate of tax payable differentiation is made between "private" companies, and "non-private" companies, and further, between non-private companies which are residents of Australia, and those which are not residents of Australia. (Further rates again apply to non-private companies which are life assurance companies or co-operative companies, but it is not proposed to deal with such companies in this report).

(3) A PRIVATE COMPANY:

A "private" company under Australian income tax law means a company which —

"on the last day of the year of income, answers any one or more of the following descriptions:

(a) A company all of the issued shares of which are held by 20 or fewer persons.
(b) A company in which more than half of the voting power is

capable of being exercised by seven or fewer persons (including their nominees, but not their relatives).

(c) A company in which shares representing more than half of the paid-up capital (other than capital represented by shares bearing a fixed rate of dividend only) are held by seven or fewer persons (including their nominees, but not their relatives).

(d) A company in which not less than three-quarters of the voting power is capable of being exercised by seven or fewer persons (including their nominees and their relatives).

(e) A company in which shares representing not less than three-quarters of the paid-up capital (other than capital represented by shares bearing a fixed rate of dividend only) are held by seven or fewer persons (including their nominees and their relatives).

(f) A company which is capable of being controlled by any means whatever by seven or fewer persons.

A company is not, however, a private company, even if it answers one or more of the above descriptions, where it is —

(i) a company in which the public are substantially interested; or
(ii) a subsidiary of a public company; or
(iii) established to the satisfaction of the Commissioner under new s. 105 (5) that, because of special circumstances, it is unreasonable that the company should be treated as a private company."

The above definition applies to all companies whether they are or are not residents of Australia. Thus a Private Company is one which is virtually controlled by a small group of persons unless it is a genuine Public Company, the shares of which are quoted on a Stock Exchange.

(4) TAXATION OF PRIVATE COMPANIES:

The assessment of the tax payable by a private company is more complicated than that of a non-private company. Upon its net income or taxable income a private company is liable to a primary tax as follows: —

4/— in the £ on the first £5000 of its taxable income, and
6/— in the £ on the balance of the taxable income.

A private company will also be liable to pay *additional tax on undistributed profits* if it fails to make a "sufficient distribution" out of its profits to its shareholders within ten months after the close of the financial year. Briefly a sufficient distribution is calculated as follows: —

Taxable income less primary tax payable, less an amount (known as the "*retention allowance*"), calculated on a sliding scale, which the Company is permitted to retain in its business without being liable to Undistributed Profits Tax. The Undistributed Profits Tax of 10/— in £ is calculated on the amount by which the dividends, if any, fall short of a sufficient distribution.

A greater retention allowance is granted where the Company's income is income from personal exertion (25% to 50% of the taxable income less the primary tax payable) than where the income is from property, other than dividends from private companies, (10%). There is no retention allowance applicable to dividends received from private companies. It is necessary, therefore, to know what comprises "personal exertion" income and what comprises "property" income.

Briefly in the case of a company "*personal exertion*" income would comprise the proceeds of a business or any profit arising from the sale by the company of any property acquired by it for the purpose of profit making by sale, or from the carrying on of any profit making scheme, *but does not include* —

(a) interest, unless the company's principal business consists of the lending of money, or unless the interest is received in respect of a debt due to the company for goods supplied or services rendered; or

(b) rents or dividends.

What is not income from personal exertion is income from property.

(5) TAXATION OF NON PRIVATE COMPANIES:

Whereas private companies are liable to both primary tax and undistributed profits tax, non-private companies are only liable to primary tax, as follows:—

Resident non-private companies —

6/— in the £ on the first £5000 of its taxable income

7/— in the £ on the balance.

Non-Resident non-private companies —.

5/— in the £ on the first £5000 of its taxable income to the extent to which dividends are included in the taxable income;

6/— in the £ on the excess, if any, of £5000 over the dividends included in the taxable income;

7/— in the £ on the excess of the taxable income over £5000 irrespective of the source of the income.

(6) REBATE OF TAX ON DIVIDENDS RECEIVED BY RESIDENT COMPANIES:

Where dividends are received a resident company is entitled to an important concession which is not extended to non-resident companies, the effect of which is to make the dividend income virtually free of tax in the hands of a resident company. This concession consists of a rebate of tax calculated by multiplying the amount of the dividends included in the taxable income by the average rate of tax payable by the company.

(7) CALCULATION OF AUSTRALIAN TAXES PAYABLE UNDER VARIOUS SCHEMES OF INVESTMENT IN AUSTRALIA:

The calculation of the Australian tax payable on the various types of income by the different types of overseas companies is illustrated hereunder:—

A. TAXES PAYABLE BY A NON-RESIDENT PRIVATE COMPANY TRADING THROUGH A BRANCH IN AUSTRALIA

	Business income			*property income other than dividends*		
Taxable Income (i.e. from Australian source)	£ 5000	£ 10000	£ 20000	£ 5000	£ 10000	£ 20000
Primary Tax	1000	2500	5500	1000	2500	5500
	4000	7500	14500	4000	7500	14500
Retention Allowance	1550	2425	4175	400	750	1450
Sufficient Distribution	2450	5075	10325	3600	6750	13050

	dividends from non-private companies			*dividends from private companies*		
Taxable Income (i.e. from Australian source)	£ 5000	£ 10000	£ 20000	£ 5000	£ 10000	£ 20000
Primary Tax	1000	2500	5500	1000	2500	5500
	4000	7500	14500	4000	7500	14500
Retention Allowance	400	750	1450	Nil	Nil	Nil
Sufficient Distribution	3600	6750	13050	4000	7500	14500

If a company does not make a sufficient distribution it is liable to Undistributed Profits Tax (Division 7) at 10/— in the £ on the amount short distributed. If it does make a sufficient distribution not only is the company not liable to Undistributed Profits Tax, but also the dividends are not subject to Australian income tax in the hands of the non-resident shareholders. This is so, despite the provisions of Sec. 44 (1)(b), by virtue of a number of Court Decisions to which reference is made hereunder. Sec. 44 (1) reads as follows:—

> "The assessable income of a shareholder in a company (whether the company is a resident or a non-resident) shall, subject to this section —
>
> (b) if he is non-resident — include dividends paid to him by a company to the extent to which they are paid out of profits derived by it from sources in Australia."

The Commissioner of Taxation now acknowledges that the High Court decision in "Nathan v F.C. of T (1918), viz. "that dividends received by a non-resident from a non-resident company declared out of income derived from Australian sources were derived from sources within Australia", was incorrectly decided in view of these later decisions, as set out below.

(a) In the Canadian Eagle Oil Co. Ltd. case it was held that the profits of a company and the dividends declared out of those profits are distinct and separate incomes.

(b) The source of a dividend is the shareholding (Bradbury v English Sewing Co. Ltd., I.R. Comrs. v Reids Trustees).

(c) A share is situated where the particular Share Register is — (Privy Council in Brassard v Smith).

(d) In "London & South American Investment Trust Ltd. v

British Tobacco Co. (Aust.) Ltd." the defendant company (an English company with its head office in Australia but with a London Share Register) was required by the Australian Tax Authorities to deduct tax from a dividend due to the plaintiff shareholder which was an English Company on the London Register. The latter company succeeded in its action claiming the amount deducted for Australian tax from the company declaring the dividend. The English High Court held that the debt created by the declaration of the dividend was situated in England, and that the Commonwealth legislature had no power to impose taxation on the plaintiff company in respect of such a debt.

Thus where dividends are paid to a non-resident on shares on an ex-Australian Register, *and the non-resident shareholder has no property in Australia*, even though the dividends are paid out of profits derived in Australia, the Income Tax Department will not issue an assessment against the non-resident shareholder, nor will it invoke Sec. 255 against the company in respect of the dividends, as in view of the decision referred to above the company would be powerless to recoup itself in respect of any tax on behalf of the shareholder in respect of the dividend.

(Sec. 255 empowers the Commissioner to obtain payment of Australian tax assessed to a non-resident from any person in Australia, having the receipt control or disposal of money belonging to the non-resident).

In view of the decisions that the source of the dividends is the place where the shares on which the dividends are declared are situated (that is, if the Share Register is situated in a European Country, then that country is the source of the dividend), it appears that Sec. 23 (r) may exempt the dividends paid to non-residents whether the company derived the income from Australia or out of Australia. However, to date there have been no court rulings on the effect of this section or Section 44 (1).

Section 23 (r) reads as follows:—

"23. The following income shall be exempt from Income Tax:—
23 (r) income derived by a non-resident from sources wholly out of Australia".

To summarise then, it is important for a non-resident private company deriving income from sources in Australia to make a sufficient distribution. In this connection it is advisable for the company to declare a dividend wholly and exclusively out of Australian profits to the extent of a sufficient distribution, and to send a copy of the relevant minute to the Department. If this course be not taken, the Department will treat any dividends paid as being paid pro rata from income from Australian sources, and income from ex-Australian sources; and to enable this calculation to be made, the Department will require from the company details of the company's world income.

B. TAX PAYABLE BY RESIDENT PRIVATE COMPANY, WHOLLY OWNED BY A NON-RESIDENT PRIVATE COMPANY:

	business income			*property income other than dividends*		
Taxable Income	5000	10000	20000	5000	10000	20000
Primary Tax	1000	2500	5500	1000	2500	5500
	4000	7500	14500	4000	7500	14500
Retention Allowance	1550	2425	4175	400	750	1450
Sufficient Distribution	2450	5075	10325	3600	6750	13050
Additional Tax payable						
(i) Where no dividend paid resident private company Div. 7 Tax	1225	2537	5162	1800	3375	6525
Non-resident private company — Australian Tax	Nil	Nil	Nil	Nil	Nil	Nil
(ii) Where sufficient distribution resident private company — Div. 7 Tax	Nil	Nil	Nil	Nil	Nil	Nil
Non-resident private company —						
*Primary Tax on Distribution as above	490	1022	2597	720	1525	3415

* The Commissioner would invoke Sec. 255 against the resident private company in order to obtain the tax payable by the non-resident private company on the distribution. It is not clear whether the Commissioner would attempt to assess the non-resident private company for Undistributed Profits Tax and invoke Sec. 255 to collect that tax. However, this problem will not arise providing the non-resident private company makes a sufficient distribution to its shareholders (vide comments under A) above).

	dividends from non-private companies			*dividends from private companies*		
Taxable Income	5000	10000	20000	5000	10000	20000
Primary Tax	Nil	Nil	Nil	Nil	Nil	Nil
	5000	10000	20000	5000	10000	20000
Retention Allowance	500	1000	2000	Nil	Nil	Nil
Sufficient Distribution	4500	9000	18000	5000	10000	20000
Additional Tax payable						
(i) Where no dividend paid resident private company Div. 7 Tax	2250	4500	9000	2500	5000	10000
Non-resident private company — Australian Tax	Nil	Nil	Nil	Nil	Nil	Nil
(ii) Where sufficient distribution resident private company — Div. 7 Tax	Nil	Nil	Nil	Nil	Nil	Nil
Non-resident private company —						
* Primary Tax on Distribution as above	900	2200	4900	1000	2500	5500

* See note page 145

C. TAX PAYABLE BY NON-RESIDENT NON-PRIVATE COMPANY THROUGH A BRANCH IN AUSTRALIA:

	business income			*property income other than dividends*		
Taxable Income (i.e. from Australian source)	5000	10000	20000	5000	10000	20000
Primary Tax	1500	3250	6750	1500	3250	6750
Available for Dividend	3500	6750	13250	3500	6750	13250

	dividends from non-private companies			*dividends from private companies*		
Taxable Income (i.e. from Australian source)	5000	10000	20000	5000	10000	20000
Primary Tax	1250	3000	6500	1250	3000	6500
Available for Dividend	3750	7000	13500	3750	7000	13500

Although the Company does not declare a dividend no further tax is payable by way of Undistributed Profits Tax (being a non-private company).

If the Company's share register is situated outside Australia and the shareholders are non-residents of Australia no tax will be payable by the shareholders on any dividends declared, provided that they have no assets within Australia (or even if they have assets within Australia, provided Sec. 23 (r) effectively over-rides Sec. 44 (1). (See notes under (A) above)).

D. TAX PAYABLE BY RESIDENT NON-PRIVATE COMPANY WHOLLY OWNED BY A NON-RESIDENT NON-PRIVATE COMPANY:

	business income			*property income other than dividends*		
Taxable Income	5000	10000	20000	5000	10000	20000
Primary Tax	1500	3250	6750	1500	3250	6750
Available for Dividend	3500	6750	13250	3500	6750	13250
Further Tax payable —						
(a) Where no dividend paid	Nil	Nil	Nil	Nil	Nil	Nil
(b) Where dividend declared equal to a sufficient distribution by a Private Company with same taxable income, i.e.	2450	5075	10325	3600	6750	13050
by European Public Company	612	1276	3114	900	1862	4067

	dividends from non-private companies			*dividends from private companies*		
Taxable income	5000	10000	20000	5000	10000	20000
Primary Tax	Nil	Nil	Nil	Nil	Nil	Nil
Available for Dividend	5000	10000	20000	5000	10000	20000
Further Tax payable —						
(a) Where no dividend paid	Nil	Nil	Nil	Nil	Nil	Nil
(b) Where dividend declared equal to a sufficient distribution by a Private Company with same taxable income, i.e.	4500	9000	18000	5000	10000	20000
by European Public Company	1125	2650	5800	1250	3000	6500

N.B. No further tax payable by shareholders in non-resident Public Company.

(8) COMPARATIVE TABLE OF TOTAL AUSTRALIAN TAXES PAYABLE UNDER ABOVE SCHEMES:

	Non-Resident Private Company		*Non-Resident Non-Private Company*		
Taxable income of Operating Company	Trading through a Branch in Australia (Where sufficient distribution made)	Where it forms Resident Private Company to trade in Australia (Where sufficient distribution by both Companies)	Trading through a Branch in Australia (Irrespective of amount of dividends declared)	Where it forms a Resident Non-Private Company to trade in Australia (Where dividend declared by Resident Company is equal to a sufficient distribution by a Private Company)	Where it forms a Resident Non-Private Company to trade in Australia (Where no dividend declared by Resident Company)
Business income					
5000	1000	1490	1500	2112	1500
10000	2500	3522	3250	4526	3250
20000	5500	8097	6750	9864	6750
Property income other than dividends					
5000	1000	1720	1500	2400	1500
10000	2500	4025	3250	5112	3250
20000	5500	8915	6750	10817	6750
Dividends from non-private companies					
5000	1000	900	1250	1125	Nil
10000	2500	2200	3000	2650	Nil
20000	5500	4900	6500	5800	Nil
Dividends from private companies					
5000	1000	1000	1250	1250	Nil
10000	2500	2500	3000	3000	Nil
20000	5500	5500	6500	6500	Nil

(9) COMPARATIVE TABLE SHOWING PERCENTAGE RATE OF AUSTRALIAN EARNINGS REQUIRED TO GIVE A RETURN OF 10% ON CAPITAL INVESTED BY OVERSEAS INTERESTS AFTER DEDUCTION OF AUSTRALIAN TAX:

Taxable Income of operating Company	*Non-Resident Private Company*		*Non-Resident Non-Private Company*		
	Trading through a Branch in Australia (Where sufficient distribution made)	Where it forms Resident Private Company to trade in Australia (Where sufficient distribution by both Companies	Trading through a Branch in Australia (Irrespective of amount of dividends declared)	Where it forms a Resident Non-Private Company to trade in Australia (Where dividend declared by Resident Company is equal to a sufficient distribution by a Private Company)	Where it forms a Resident Non-Private Company to trade in Australia (Where no dividend declared by Resident Company)
Business income					
£ 5000	12.5(1)	14.2	14.3	17.3	14.3
10000	13.3	15.4	14.8	18.3	14.8
20000	13.8	16.8	15.1	19.7	15.1
Property Income other than Dividends					
5000	12.5	15.2	14.3	19.2	14.3
10000	13.3	16.7	14.8	20.5	14.8
20000	13.8	18.0	15.1	21.8	15.1
Dividends from Non-Private Companies					
5000	12.5	12.2	13.3	12.9	10
10000	13.3	12.8	14.3	13.6	10
20000	13.8	13.2	14.8	14.1(2)	10
Dividends from Private Companies					
5000	12.5	12.5	13.3	13.3	10
10000	13.3	13.3	14.3	14.3	10
20000	13.8	13.8	14.8	14.8	10

GUIDE FOR USE OF ABOVE TABLE

EXAMPLE (1)

A *Non-Resident Private Company* trading through a branch in Australia and deriving a business income of £5000 (noted (1) above)

Business Income	£5000
Australian Tax (vide Part 8)	1000
Net Return after tax	£4000

Net return required is 10% of capital invested, therefore capital would be £40,000

$$\text{Business Income} = \left(\frac{5000}{40000} \times \frac{100}{1}\right) = 12\frac{1}{2} \text{ of Capital invested (£40,000)}$$

In other words a non-resident private company trading through a branch in Australia and investing £40,000 from which it required a net return (after deduction of Australian tax) of 10%, viz. £4000, would have to receive a net business income of £5000 representing 12½% of capital invested (£40,000).

EXAMPLE (2)

A *Non-Resident Non-Private Company* forming a resident non-private company to hold shares in resident non-private companies, the subsidiary deriving an income of £20,000, and paying a dividend of £18,000 (representing an amount equal to a sufficient distribution by a private company with the same taxable income (noted (2) above) —

Income of Subsidiary (ex dividends)	£20,000
Australian Tax (vide Part (9))	5,800
Net Return after tax	£14,200

Net return required is 10% of capital invested, therefore capital would be £142,000

$$\text{Income of Subsidiary} = \left(\frac{20000}{142000} \times \frac{100}{1}\right) = 14.1\% \text{ of Capital invested (£142,000)}$$

In other words where a non-resident non-private company forming a resident non-private company to hold shares in resident non-private companies, and investing £142.000 therein from which it required a net return (after deduction of Australian tax) of 10%, viz. £14,200, it would be necessary for the Australian subsidiary to receive an income of £20,000 representing 14.1% of capital invested (£142,000).

(10) CONCLUSION:.

A study of the Comparative Table of Australian Taxes payable under the various schemes brings to light the following:

(a) *In the case of private companies:*

Where the overseas private company wishes to invest otherwise than in shares in Australian companies, it would be well advised from an Australian income tax viewpoint to trade through a branch in Australia. However, to ensure the saving in taxation under this scheme it is necessary for the Company to declare a dividend specifically from the Australian income derived to the extent necessary to avoid Undistributed Profits Tax of 10/— in the £. In this connection it is pointed out that the declaration of the dividend does not mean that cash equal to the amount of the dividend must be remitted from Australia. It is sufficient if the shareholders be paid the dividend from other available cash of the company, or if the shareholders be merely credited with their proportion of the dividend in the overseas books of the company.

Where the overseas private company wishes to invest in shares in non-private companies it would be advisable from the Australian taxation viewpoint for the company to form a subsidiary in Australia. However, to ensure the taxation saving under this scheme it is necessary that the non-resident holding company declare a dividend equal to a sufficient distribution, wholly out of the dividends received from the Australian subsidiary.

As far as the investment in Australian private companies is concerned it is immaterial whether the non-resident company itself holds the shares or whether it forms an Australian subsidiary to hold the shares.

(b) *In the case of non-private companies:*

Where the overseas non-private company wishes to invest otherwise than in shares in Australian companies, it would be well advised to trade through a branch in Australia.

Where, however, the overseas non-private company is principally interested in share investments in Australian companies, it would save in Australian taxation if it formed a subsidiary in Australia to take up the investments, particularly as tax would only be payable if and when dividends are declared by the Australian subsidiary.

In the above report we have endeavoured to set out as concisely as possible the overall position in relation to investment in Australia by overseas companies. However, we have been unable to touch on all aspects, and it is advisable that each individual case be considered having regard to its particular and peculiar circumstances. We would be pleased to give further information and advice in regard to the matters considered in this report.

II

SURVEYS OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

Austria *Period from 1st March till 30th April 1956*

No alterations.

Belgium *Period from 1st March till 30th April 1956*

Impôts Directs

Loi du 30 mars 1956 modifiant les lois coordonnés relatives aux impôts sur les revenus en matière d'imposition des revenus professionnels des époux, Moniteur Belge 1956, p 2565.

Droit d'accise

Arrêté Ministériel du 5 avril 1956 remplaçant le tableau des bandelettes fiscales pour tabacs, Moniteur Belge 1956, p 2342, 2459.

Taxes assimilées au timbre

Arrêté Royal du 31 mars 1956 modifiant le Règlement général sur les taxes assimilées au timbre, Moniteur Belge, 1956, p 2341.

France *Period from 1st March till 30th April 1956*

Taxe spéciale temporaire de compensation

Arrêté du 5 avril 1956 relatif à la taxe spéciale temporaire de compensation, J.O. 1956, p 3359.

Taxe intérieure de consommation

Décret no 56.339 du 30 mars 1956 portant aménagement des droits et taxes applicables aux produits du pétrole et fixant les conditions d'application de la taxe intérieure de consommation aux supercarburants, J.O. 1956, p 3155. Arrêtée du 30 mars 1956 fixant les conditions d'application aux stocks du supercarburants dédouanés de la majoration du taux de la taxe intérieure prévue à l'article 4 de la loi no 56, 331 du 27 mars 1956, J.O. 1956, p 3158.

Droits de Douane

Décret no 56-376 du 12 avril 1956 portant suspension provisoire des droits de douane d'importation applicables aux animaux de l'espèce bovine et aux viandes de ces animaux dans la limite de contingents tarifaires, J.O. 1956, p 3576.

Décret no 56, 382 du 14 avril 1956 portant augmentation du contingent des bulbes, oignons, tubercules, racines, tubéreuses, griffes et rhizomes en repos végétatif (no ex 06-01 Aa) à admettre à l'importation au droit de douane de 10 p. 100 pendant la campagne 1955 / 1956, J.O. 1956, p 3666.

Matières Diverses

Décret no 56-251 du 13 mars 1956, fixant les indices applicables pour l'évaluation fiscale des stocks, J.O. 1956, p 2512.

Netherlands *Period from 1st March till 30th April 1956*

Conventions

Decree of January 31, 1956 No 32 (double taxation convention with France), first rectification, Ned. Stcrt 1956, nr. 49.

Decree of February 20, 1956 No 77 (double taxation convention with Finland), first rectification, Ned. Stcrt 1956, nr. 49.

W. Germany *Period from 1st March till 30th April 1956*

General

Gesetz vom 28. März 1956 zur Ergänzung des Dritten - D. Markbilanzergänzungsgesetzes, B.G.Bl. 1956, p 161.

Conventions

Gesetz vom 19. März 1956 über das Vierte Berichtigungs — und Aenderungs — protokoll von 7. März 1955 zu den Anlagen des Allgemeinen Zoll- und Handelsabkommen (G.A.T.T.) und zum Wortlaut der diesem Abkommen beigefügten Zollgeständnislisten, B.G.Bl. 1956, p 336.

Gesetz vom 19. März 1956 zu der Erklärung vom 10. März 1955 über die Verlängerung der Geltungsdauer der Zollzugeständnislisten zum Allgemeinen Zoll- und Handelsabkommen (G.A.T.T.), B.G.Bl. 1956, p 373.

Income Tax

Verordnung vom 14. März 1956 zur Aenderung der Einkommensteuer-Durchführungsverordnung, B.G.Bl. 1956, p 107.

Gewerbesteuer-Durchführungsverordnung vom 24. März 1956, B.G.Bl. 1956, p 152.

Equalization of Burden Law

Sechstes Gesetz vom 29. März 1956 zur Änderung des Lastenausgleichsgesetzes (Fristenänderungsgesetz), B.G.Bl. 1956, p 161.

Sales Tax

Sechstes Gesetz vom 8. März 1956 zur Änderung des Umsatzsteuergesetzes, B.G.Bl. 1956, p 103.

Fünfte Verordnung vom 26. April 1956 über Änderungen der Ausgleichsteuerordnung, B.G.Bl. 1956, p 269.

Excise Tax

Fünftes Gesetz vom 26. März 1956 zur Änderung des Zuckersteuergesetzes, B.G.Bl. 1956, p 131.

Verordnung vom 19. April 1956 zur Änderung der Verordnung zur Durchführung des Zuckersteuergesetzes, B.G.Bl. 1956, p 263.

Customs

Einundfünfzigste Verordnung vom 1. März 1956 über Zollsatzänderungen (Konjunkturpolitische Zollsenkung), B.G.Bl. 1956, p 105.

Fünfte Verordnung vom 13. März 1956 über Erläuterungen zum Zolltarif, B.G.Bl. 1956, p 108.

Dreiundfünfzigste und Vierundfünfzigste Verordnung über Zollsatzänderungen vom 28. März 1956, B.G.Bl. 1956, p 162, 163.

Fünfundvierzigste und Sechsundvierzigste Verordnung über Zollsatzänderungen, vom 29. März 1956, B.G.Bl. 1956, p 241, 242.

MISCELLANEOUS — FAITS DIVERS

Canada

Budget Summary

Tax-Policy — No Income Tax Reduction.

Under this head of the budgest speech the suggestion that although the economy was booming it must not be permitted to get out of hand is developed to its logical conclusion. It is stated that "it is not possible for me to recommend to Parliament any reduction in the general level of income tax this year . . ." The Minister follows this statement of general policy with the customary preparation of his audience for amendments of a technical or clarificatory nature, some of which he indicates in general terms in his speech and others of which he forecasts in the amending legislation.

Income Tax — 1. *Profit-sharing plans.*

Heretofore profit-sharing plans, as established unter the Income Tax Act, have suffered from a number of disabilities not foreseen when the governing legislation was first enacted. Profits and losses resulting from investment portfolio purchases and sales made it difficult to compute accurately the appropriate share of any employee in such a plan in terms of the relativity of his equity interest to other employees who might remain in the plan under other economic conditions. Also employees receiving payments from provt-sharing plans were, because of certain technical limitations in the Statute, debarred from enjoying the 20 per cent dividend credit which they would otherwise have received on account of the dividends paid on stocks in the portfolio of the plan. Furthermore difficulties arose when contingent allocations were taxed to the employee who did not actually receive a right to an interest in the profit-sharing fund.

The minister gives notice of his intention to introduce legislation to cure these deficiencies in the law:

"There will be some changes in the tax treatment of proceeds from plans under which employers share their profits with employees. In future under deferred profit-sharing plans, gains and losses resulting from investment portfolio transactions will be excluded in calculating the taxable portion. The dividend element in the income allocated to a member will be recognized for tax credit purposes. Also, there will be postponement of a tax liability for the first three years on amounts allocated to a member of a plan if the unconditional right to receive such amounts has not been assured to the member within this period. With these changes our tax provisions for provt-sharing plans will be established on a pretty satisfactory basis."

2. Pension Plan Investment Limitation Lifted

The minister proposes as follows:

"Over the past year my colleague, the Minister of National Revenue, and I have given considerable thought to the general requirements to which pension plans must conform in order to establish the right of tax deductibility for contributions. We have concluded that it is desirable to revise the "Blue Book" which contains the general instructions regarding pension plans. In particular we have examined with some care the provisions relating

to limits on the discretion of the trustees in investing funds placed under their administration and we have studied the urgent representations made to us for the removal of some of these restrictions. Our decision is that we should remove the percentage limitations relating to equity investments so that trustees will be able to govern their own investment policies in the light of the particular pension requirements of the plans under their administration."

3. *Convention Expenses*

In 1956 the Exchequer Court of Canada affirmed a decision of the Income Tax Appeal Board in the case of Harold Griffith v.M.N.R., (1956) C.T.C. 47, in which the claim of a practising anaesthetist to deduct expenses of travelling to conventions in the United States and Europe were disallowed as not being sufficiently related to the earning of his income to justify their deduction under the law. This raised the fears of many professional individuals that henceforth the earlier permissive practice of the Taxation Division to allow the expenses of attending a limited number of conventions a year would be discontinued. The Minister has now announced his intention to introduce legislation to cure this difficulty. He proposes to submit an amendment to the Income Tax Act to allow the deduction of expenses for two conventions annually in Canada for the 1955 and subsequent years.

4. *Proposed Broadening of Five Per Cent Withholding Tax on Dividends.*

The Government has taken note of an increasing volume of objection to the degree that Canadian companies are being acquired by non-resident owners to the virtual exclusion of Canadian investors. Mr. Harris discloses the possibility that the problem may be cured in part by amending the United States Tax Treaty and by entering into additional treaties. His comments are of great interest:

"In recent months there have been frequent references to foreign ownership and control of Canadian companies. It has been suggested that a certain feature of our tax law may be discouraging the foreign owner from allowing Canadian participation in his enterprise. Under our law the standard rate of tax payable by non-residents on dividends from Canada is 15 per cent. However, the tax is only 5 per cent on a foreign corporation if it owns all the shares which, under all circumstances, have full voting rights. It might be noted in passing that the tax position of the foreign company is not adversely affected by issuing for public participation in Canada other kinds of shares in the Canadian company.

This general provision in our tax law to which I have just referred has in many cases been modified by tax treaties with various countries in recent years. For example, in our treaties with Sweden, Ireland and Denmark a company may secure the preferred rate of 5 per cent on dividends if it has more than 50 per cent ownership of the Canadian company. Negotiations for Tax Conventions are currently active in South Africa, Australia, The Netherlands and Germany.

By amendment to our treaty with the United States six years ago the percentage ownership required for the 5 per cent rate was reduced from 100 per cent to 95 per cent. For some time we have had this item on our agenda for discussion with the United States administration, and toward the end of last year the question of a further reciprocal lowering of the percentage ownership requirement was proposed. I have reason to hope that this proposal will be acceptable to the United States and that an amendment to our Tax Convention will in due course be effected."

Succession duties

Although the question of the revision of the Dominion Succession Duty

Act was mentioned in the Budget of 1954 and again in 1955, no reference is made to it in the present speech. It was, however stated in the Speech from the Throne that a new Dominion Succession Duty Act will be introduced in Parliament at this Session. If enacted, it will presumably be effective some time in 1956.

Sales and Excise Taxes

The general rates of sales tax and special excise taxes will not be changed but certain additions will be made to the exemption list, some of which are in accordance with the Sales Tax Committee's report recommending greater simplicity and certainty in the law. The most important of these changes are the extensions to the definitions of building materials and production goods.

One usual tax which will be of general interest is that on special "Canadian" editions of non-Canadian periodicals. A 20 per cent tax will be levied on the value of advertising material contained in such special editions. This tax will come into effect on January 1, 1957.

Source: *Canada Tax Service, Budget Edition* 1956

5 — *Cédants Suisses. Extension du bénéfice du nouvel accord.*

En application du paragraphe 3 de l'accord franco-suisse du 10 février 1955 le bénéfice de l'accord franco-américain, plus libéral que le précédent, a été étendu aux donneurs suisses de licence.

Source: *Bulletin Officiel des Contributions Indirectes*, 1956, *I.*, p. 39

France

100 *millards d'impôts nouveaux?*

A peine installé rue de Rivoli M. Ramadier, nouveau ministre des Finances et des Affaires économiques, a pris la mesure des problèmes budgétaires qui se posent à lui. Déjà, il a prévu l'établissement d'un „bilan économique et financier", qui sera présenté lors du dépôt du prochain collectif. Dans ce collectif même s'affirme la volonté du ministre de freiner les dépenses nouvelles: les ministères dépensiers ont formulé des demandes de l'ordre de 200 millards, en sus des crédits reconduits de 1955. Mais pour ne pas dépasser la limite de 2,720 millards, assignée aux dépenses civiles, ce chiffre devrait Etre réduit de moitié. Il faudrait donc, que, s'ajoutant aux incidences de la réduction des abattements de zones (10 millards pour les finances publiques), les autres crédits supplémentaires, Fonds de vieillesse compris, n'excèdent pas 90 millairds.

Impossible encore de chiffrer le coût des opérations militaires en Algérie, mais il ne semble pas qu'il dépasse, pour l'instant, les sommes prévues à cet effet. Quant aux 200 milliards d'investissement nécessaires, dont a parlé M. Guy Mollet, ils doivent s'intégrer dans un plan économique et social à long terme (inspiré du rapport Maspétiol) pour lequel on pourrait lancer des emprunts annuels de 15 à 20 milliards.

Même ramenée à 100 milliards (Algérie non comprise), l'augmentation des dépenses se traduirait par une augmentation du déficit si elle n'était couverte par des ressources nouvelles. M. Ramadier va-t-il donc faire appel à 100 milliards d'impôts nouveaux? Et lesquels?

L'usage est de songer d'abord à l'impot sur les sociétés. Mais chaque point ajouté à cet impôt (qui atteint déjà 38%) ne rapporterait que 10 ou 11 milliards. Cette ressource ne saurait suffire. Imposera-t-on les voitures (par example à 3.000 francs par C.V.?).

M. Ramadier n'ignore sans dcute pas les travaux de la nouvelle sous-commission d'enquête fiscale, qui a entendu M. Loriot, conseiller d'Etat, auteur du rapport sur la fiscalité publié en 1952.

La commission a rejeté le système de l'impôt sur l'énergie, comme ne présentant qu'une simplicité apparente, et celui de l'impôt sur le capital; selon M. Loriot, elle a retenu les réformes suivantes:

* Extension de la T.V.A. à tous les stades.
* Limitation du privilège des Bouilleurs de cru aux seuls exploitants agricoles.
* Unification des tarifs de la taxe proportionnelle sur un taux plus faible (10%)
* Addition des allocations familiales dans les revenus à déclarer.
* Fusion de la taxe proportionnelle et de la surtaxe progressive.
* Etablissement de mode d'évaluation distinct pour les bénéfices des grandes et des petites exploitations agricoles.
* Adoption d'un système indiciaire pour la taxation forfaitaire des bénéfices industriels et commerciaux des petits contribuables.
* Détente des droits de mutation.

Enregistrons ces promesses et ces menaces. Mais notons dès maintenant que toute majoration de la T.V.A. risquerait de peser sur les prix. Quant à l'incorporation des allocations familiales dans les revenus, elle pénaliserait étrangement les familles nombreuses: un salarié, ayant 4 enfants, gagnant 85.000 francs brut par mois et 28.000 fr. d'allocations, n'est actuellement pas imposable. Avec le système projeté, il paierait 39.000 francs d'impôts devrait les régler par accomptes provisionnels et perdrait tout droit à divers secours familiaux (vacances collectives, etc.). Est-ce bien ce que veut M. Ramadier?

Source: *La Vie Francaise, — 12e année — No.* 561

India

Tax Relief for Foreign Technicians.

The Government of India has announced that foreign technicians employed in India may in future claim exemption from income tax, provided that they have not resided in India within four years prior to the financial year in which they arrive for their technical employment, and are employed in a capacity requiring the exercise of specialized knowledge of industrial science and practice.

Technicians intending to take up employment in India are requested to submit contracts for official approval which, if granted, will entitle them to income tax exemption for the fiscal year during which they arrive in India and the following two years. Those failing to obtain this approval are entitled to limited privileges, i.e., exemption from income tax for the first two fiscal years if during these two years taken together their residence or physical presence in India does not exceed 365 days, or for one year if residence is longer.

Foreign Exporters not assessed Indian Tax.

Exporters shipping machinery to India on credit, payment for which is to be made in that country, are not subject to the Indian Income Tax Law, according to an Indian Ministry of Finance note issued on December 1, 1955.

Normally the country in which export sales proceeds are received is important in implicating a foreign exporter under section 4 (1)a of the Indian Income Tax Act, which reads as follows:

"Doubts have been expressed in certain quarters about the liability to Indian income tax of nonresident exporters of plant and machinery to India and of resident importers thereof who use the machinery for business, in cases where the exporter does not recover the full value of the machinery before delivery and allows the importer to pay for it in installments.

It has been made clear before that where the transaction between the

exporter and importer is as between principal to principal, no tax liability attaches to the exporter. Where, therefore, the transaction of sale and the purchase of the plant and machinery is as between principal to principal and the exporter and the importer have no other business connection, the fact that the exporter allows the importer to pay for it in installments will not by itself render the exporter liable to tax on the ground that the income is deemed to arise to him in India.

The Indian importer will not in such a case be treated as an agent of the exporter for the purpose of assessment."

The criteria for determining what constitutes a transaction between principal and principal remain undefined. According to a circular issued by the Indian Central Board of Revenue on July 17, 1953, on the liability of nonresident exporters of goods to India, the relationship of principal to principal is to be inferred if, among other things, the transaction between the resident and nonresident is made at „arms length" and the resident's purchase is outright on his own account.

The intention was that the resident and nonresident should be strangers to each other in that there should be no agency relationship between the two or any financial control.

Another condition laid down was that the price paid by the resident to the nonresident should be that normally chargeable to other customers, that is, if the price were lower the Board would deduce that the parties were not strangers.

Sources: *Foreign Commerce Weekly, vol.* 55 *no.* 8, *p.* 9 *and Int. Financial News Survey, vol VIII, no* 29.

India — United Kingdom

The Government of India and the United Kingdom have agreed in principle on the avoidance of double taxation in respect of estate duty. Agreement has also been reached for the renewal of the present double taxation arrangements in respect of income tax.

Source: *Int. Financial News Survey, vol VIII no* 29

Switzerland

Steuersenkungen bei Wehrsteuer und Warenumsatzsteuer.

Durch Bundesbeschluss über die Ermässigung der Wehrsteuer und der Warenumsatzsteuer vom 21.12.1955 sind die für die Jahre 1955 bis 1958 geschuldeten Wehrsteuerbeträge sowie die Warenumsatzsteuersätze für die Jahre 1956 bis 1958 herabgesetzt worden. Die Ermässigung bei der Wehrsteuer (direkte Bundessteuer vom Einkommen und Vermögen) beträgt für juristische Personen einheitlich 10%, für natürliche Personen auf die ersten 500 sfrs Wehrst 40%, auf die folgenden1500 frs 25% und auf die 2000 sfrs übersteigende WehrSt 10%. Bei der Warenumsatzsteuer werden sämtliche Ansätze um 10% herabgesetzt, sinken also in der Regel von 4 auf 3,6% bei Detaillieferungen und von 6 auf 5,4% bei Engroslieferungen. Zu bemerken ist, dass die schweizerische Umsatzsteuer eine Einphasen.

IV

REVIEWS — COMPTES RENDUS

G. H. COPEMAN, TH. D.: *Leaders of British Industry* — Gee and Company (Publishers) London, 1955, 173 pp.

The author has made an analysis of the development, status and duties of the company director and has built up on this foundation the results of a painstaking research carried out with the co-operation of some thousand directors engaged in various fields in industry and commerce. The study is concerned only with the directors of public joint stock companies. Each chapter in Part I is designed to make some contributions towards a picture of public company directors. In part II of the book attention is concentrated even more closely on a number of directors of large public companies.

The booklet is recommendable for those interested.

1953 *Proceedings of the forty-sixth Annual Conference on Taxation of the National Tax Association*, edited by RONALD B. WELCH, Sacramento California, 1954, 657 pp.

This book contains the proceedings of the forty-sixth Annual Conference on Taxation held under the auspices of the National Tax Association at Louisville, Kentucky, from September 30 till October 1, 1953 and the minutes of the annual meeting of the members of the Association held September 30, 1953 and of all meetings of the executive committee during the calendar year 1953.

In the general sessions of the conference i.a. the following subjects were discussed:

1. The federal whiskey tax rebellion
2. The State fiscal problems
3. Some aspects of the federal budget
4. Taxation in perspective
5. Federal tax philosophy
6. Tax reform via the budget

In the round table discussions the following subjects passed under revue i.a.

1. Property tax problems
2. Capital gains taxation
3. Taxation and foreign investments
4. Depreciation
5. Financial problems of cities

A book we recommend in the attention of those interested.

Dr. EMIL BERGER: *Der Steuerprozess, Handbuch mit Kommentar zum Rechtsmittelverfahren* — C. H. Beck'sche Verlagsbuchhandlung, München, Berlin, 1954, 625 pp.

In our time the tax law suit is very important and so it is necessary that there are good books in the field of law suit. The book by Dr. Emil Berger is one of them. The author treats in a very systematic and clear manner the principles and the different questions of the law suit. The book is divided into three parts. The first part gives the text of the various acts, the second part a systematic treatment of the tax law suit, while the third part contains an instructive compendium of the most important case law of the "Reichs-

und Bundesfinanzhof". We are pleased to recommend this book in the attention of our readers.

UNITED NATIONS: RESEARCH AND PLANNING DIVISION, ECONOMIC COMMISSION OF EUROPE: *Economic Bulletin for Europe*, fourth quarter, 1953 — vol. 6 no. 1., Geneva, May 1954, 96 pp.

This publication presents two articles on European economic activity: a review of the economic situation in Europe during the fourth quarter of 1953 and a special study on Europe's trade in agricultural produce.

The former article shows that the expansion of production and inter-European and overseas trade of the Western European countries continued during the quarter in question, although doubt is expressed whether a mere cessation of the upward economic trend in the U.S.A. would be sufficient to allow those countries to maintain the present volume of their overseas export and further increase their production and trade.

The purpose of the latter article is to give a detailed investigation of Europe's trade in agricultural product and its evolution over the last four decades. Some 54 pages with charts and tables complete this interesting report.

RONALD A. MA AND EDWARD F. SZCZEPANIK: *The National Income of Hong Kong* — Hong Kong University Press — London: Cumberlege, Oxford University Press, 1955, 70 pp.

This book presents the estimates of the national income per head and per household, the burden of taxation, the effect of the influx of refugees on the level of earnings, the rate of capital formation and the average income per capita in Hong Kong with other countries in the Far East. The authors explain that this work in its present form is envisaged as a first draft, eventually to be amplified and incorporated in a larger study of the Economic Structure of Hong Kong.

Steuerberater — Jahrbuch 1953/54 — Verlag Dr. Otto Schmidt K.G., Köln.

The Yearbook opening with the photograph of Dr. OTTMAR BUHLER, the first winner of the "Gerhard Thoma-Ehrenpreis des Fachinstituts der Steuerberater"; has been published by order of the mentioned "Fachinstitut" by Prof. Dr. ARMIN SPITALER at Cologne.

The latter recalled in his preface the congresses held since 1949, in which the application of the valid fiscal law held a foremost place. The fact is not that questions of tax policy are neglected, but the demands of practice take the first place. So it must be: "Der Steuerberater ist ein Diener des Rechts in der Funktion des Interessenvertreters." The congresses are more and more characterized by a meeting of the real profession with administrative and scientific persons. Real progress can only be obtained by collaboration of these groups. From the speeches of representatives of the Ministry of Finance some information is given about the coming "grosse Steuerreform". In that connection two utterances are remarkable: "Die Doppelbelastung der Aktien werde in der grossen Steuerreform nicht beseitigt werden können" and in connection with the assessment of the reserves: "Eine umwälzende Steuerreform brauchten wir nicht."

No fewer than 13 articles are inserted in the yearbook; they deal with various subjects, which in themselves already will arouse the interest of many people. For instance the article by Dr. jur. W. D. W. TERSTEGEN, Hannover, about the sociological side of the fiscal penal law, in which also the manner of conducting an action of law has been treated. With this the article of GERHARD THOMA about the obligation to secrecy of the tax consultant is connected. The application of equity (§131 A.O. according.

to the new law) is the important subject treated by Prof. WERNER FLUME, Göttingen. The article about the free discretion of the Administration and the legal protection against it by Dr. MAARZE, Düsseldorf, will meet with interest also outside Germany. Important is the subject treated by SIEGFRIED SCHIFFBAUER: Die Typisierungstheorie im Steuerrecht, in which one gets a picture of development, the simplification and evenness in tax legislation when one turns from the individual case to direct oneself to the general case. Many other subjects are elucidated: the person, especially when transferring an enterprise, Dr. EHLERS, Hamburg; the family-enterprise, Dr. BÖTTCHER, Stuttgart; business expenses, Prof. SPITALER; the "Körperschaften" in the Kleine Steuerreform, Dr. VAN DER VELDE, Essen; questions about the income tax, Dr. OERMANN; Berichtigungen der D.M.-Eröffnungsbilanzen und Vermögensaufstellungen", Dr. GRONENBOM; questions about death duty, Dr. KAPP; and death duty in connection with a fund, Dr. STRICKRODT.

In Steuer und Wirtschaft XXXI nr. 1/2 — January-February 1954 p. 43 an elaborate report is mentioned about the professional congress of the Steuerberater, by Prof. SPITALER.

N. E. CHALLONER, LLB.A.C.A. (AUST) AND C. M. COLLINS, B.A. LLB: *Income Tax Law and Practice (Commonwealth)- Australia* — The law Book Co of Australasia Pty Ltd., Sydney, 1953, 1092 pp. First supplement 1 July 1954, 180 pp.

In this voluminous handbook the Income Tax and Social Service Contribution Assessment Act, 1936-1953, the Regulations thereunder, the Income Tax and Social Services Contribution Act, 1952, the Taxation Administration Act, 1953, and the Income Tax and Social Services Contribution Assessment (Air Navigation Changes) Act, 1952 are examined.

The book also contains the most important decisions of the High Court of Australia and the most important decisions of English Courts. The same applies to the Boards of Review.

The subject-matter is treated in such a manner, that a commentary is given under the text of each section of the law. The commentaries are elucidated with clear examples.

It was the intention of the authors to keep the work up-to-date by issuing supplements and the first supplements have now appeared. So this handbook is now up-to-date till December, 1954.

THE COMMONWEALTH OF PUERTO RICO DEPARTMENT OF TREASURY: *Commonwealth of Puerto Rico expenditures and receipts for fiscal year ending June* 30, 1953 — Puerto Rico, 1954, 21 pp.

This report is the work of a special accounting revision committee and is intended to illustrate in the most simple and comprehensive manner an overall picture of the financial operations of the Government of Puerto Rico.

The system of accounts proposed revolves around the following three principal sectors:
(1) The Commonwealth Government functions with which the citizens are mainly concerned, (2) Simple statement of receipts and expenditures and (3) the presentation of accounts which are closely related with Commonwealth net income and product accounts.

ECONOMIC COMMISSION FOR EUROPE — TRANSPORT DIVISION: *Annual Bulletin of Transport Statistics for Europe* 1954 — United Nations, Geneva, 1955, 87 pp.

This issue of the Bulletin of Transport Statistics for Europe was published in December 1955. Salesnumber 1956. II.E 1.

M. K. THOMEY, B. COM., A.P.A.N.Z.: *The principles and practice of Income Tax in New Zealand.* — The Accountants Publishing Co of N.Z. Ltd., Wellington, N.Z. 1953, 383 pp.
Second edition 1955, 490 pp.

In his preface to the first edition the author says, that he has seen the necessity of a book which will provide a service for accountancy students and practitioners.

So he stresses the practical application of the law and he discusses the fundamental aspects of the subject, without a research into the whole field of taxation.

The application of the various sections is elucidated by many examples. Case law is reproduced, where necessary.

At the end of several chapters of the book and at the end of the book revisionary problems are included which provide useful experience, especially for examination preparation.

A second edition of the book was necessary, for there have been many changes in the law since the publication of the book in 1953. The law stated in the second edition is based on the Land and Income Tax Act, 1954, which came into operation on 1st April, 1955. The basic rates used are those which will apply to the income year ended 31st March, 1955. A summary of the budget proposals 1955 has been set forth.

INDUSTRY DIVISION OF THE ECONOMIC COMMISSION FOR EUROPE: Quarterly Bulletin of Steel Statistics for Europe — vol. VI no. 3 — United Nations, Geneva, 1955, 122 pp.

Vol. VI no. 3 of this Bulletin was published in November 1955.

G. W. BEUNDER AND F. KUIPERS: *Goodwill — Enige economische aspecten en enige fiscale aspecten* — Taylor, Efficiency Bureau voor Administratieve Organisatie, Nymegen, 1954, 51 pp.

On September 22, 1954 the "Accountantsday" of the "Algemene Vereniging van Accountants" was held. One of the subjects under discussion was: Goodwill.

Mr Beunder treats the subject in relation to business economics and Mr Kuiper to Income Tax.

Taylor has now published these reports in this booklet.

Among other things Mr Beunder elucidates the contents, the value, the depreciation and the financing of the Goodwill, Mr Kuiper the definition of the "Hoge Raad" (Supreme Court), Real and Personal Goodwill, Depreciation and Realisation of the Goodwill in relation to sec. 7, subsection 2 of the "Besluit Inkomstenbelasting 1941."

J. C. TIMMERMANS: *Rijks- en Provinciale belastingen* (Reichs- und Provinzialsteuern), 2 Bände — Verlag N. Samsom N.V., Alphen a.d. Rijn, 1955, 105 pp.

Die dritte Auflage dieser Ausgabe ist jetzt erschienen. Bei dieser Auflage ist das Buch in zwei Bände zerlegt worden, wobei man den allgemeinen Teil in Band I und die verschiedenen Steuern in Band II aufgenommen hat.

Im ersten Band wird die Theorie der Steuern behandelt, u.a. der Entwicklungsgang der Steuern, der Begriff Steuer, Steuerpolitik und die Grenzen der Steuererhebung.

Im zweiten Band sind in 16 Paragraphen die verschiedenen Reichs- und Provinzialsteuern behandelt.

JOHN BURKE, M. A. SHEWAN, R. R. KINGSLAND: *„Current Law." Income Tax Acts Service* (Clitas) Loseblatt-Ausg. 2 Bände. Sweet & Maxwell, London.

In Bulletin vol. VI S. 117 ist diese vorzügliche Gesetzsammlung schon besprochen worden. Seitdem sind eine Anzahl Ergänzungslieferungen herausgekommen, wodurch das Werk aktuell bleibt. Die letzte Ergänzungslieferung (nr. 33) enthält den Finance BILL, 1956.

THE TECHNICAL RESEARCH COMMITTEE OF THE ASSOCIATION OF CERTIFIED AND CORPORATE ACCOUNTANTS: *Income from abroad — The Assessment of Remuneration and Similar Earnings to United Kingdom Income Tax* — The Association of Certified and Corporate Accountants, 22 Bedford Square, London W.C. 1, 1955, 15 pp.

In dieser Broschüre wird den Fragen der Steuerbarkeit ausländischer Einkommen (insbesondere Einkommen aus nicht selbständiger Arbeit) kraft der englischen Income tax, eine Besprechung gewidmet.

JOHN MCKELLAR WHITE: *Income Tax Guide* — 1955 edition, The Taxpayers' Publishers Pty Ltd., 11c Castlereagh Street, Sydney, 1955, 84 pp.

Diese Ausgabe der Taxpayers' Association ist ein einfacher Führer durch die komplizierten Bestimmungen der Einkommensteuer. Sie bezweckt, Steuerpflichtigen behilflich zu sein beim Ausfüllen ihrer Steuerangaben und ihnen zu ermöglichen, die Steuern, die sie zu bezahlen haben, zu errechnen. Das Buch bezieht sich auf die Einkommensteuer in der Fassung vom 30. Juni 1955. An Beispielen wird der Wortlaut erklärt. Ein geeignetes Büchlein für jedermann, um einen kurzen Ueberblick über die praktische Anwendung der Materie zu erhalten.

R. STAPLES: *Key to Income Tax and Sur-Tax* — Finance Act Edition 1955, Taxation Publishing Company Ltd., 98 Park Street, London W.I., 223 pp.

Erschienen ist die Finance Act 1955 — Ausgabe dieses vortrefflichen Buches, das wir erneut dem Interesse unserer Leser sehr empfehlen. In Anbetracht der grossen Beachtung, die wir dieser bekannten Arbeit bereits wiederholt in unserem "Bulletin" gezollt haben, glauben wir uns diesmal auf die Ankündigung dieser Ausgabe beschränken zu können.

MARVAL AND O'FARREL: *Outline of Argentine Corporation Tax, Labour and Foreign Investment Laws* — Talleres Graficos Rodo — Rioja 1251, Buenos Aires, 1955, 80 pp.

In diesem Buche wird ein Ueberblick gegeben über die verschiedenen gesetzlichen Vorschriften und Bestimmungen mit denen man bei der Gründung eines Unternehmens in Argentinien zu rechnen hat.

In Abschnitt III werden die Steuern behandelt; die Einkommensteuer, die Erbschaftsteuer für Familiengesellschaften, die Gewinnsteuer, die Umsatzsteuer und die Verbrauchsteuer (Internal Revenue Tax).

Ein geeignetes und übersichtliches Büchlein für jeden, der in Argentinien eine Betriebsstätte hat oder gründen will.

H. W. HEWITT, L.L.B. (LOND.): *Green's Death Duties, Fourth (Cumulative) Supplement to third Edition* — London, Butterworth and Co (Publishers) Ltd., 1956, 55 pp.

Es ist die vierte Ergänzungslieferung dieses vorzüglichen Buches herausgekommen; eine Besprechung dieses Buches erfolgte bereits in Bulletin Bd. VI. S. 226. Mit dieser Ergänzungslieferung erhält das Werk den Stand vom 1. September 1955.

E. Duncan Taylor, F.C.A.: *Profit-sharing and Co-partnership themes in industry* — The Institute of Chartered Accountants in England and Wales, London 1955, 28 pp.

In diesem Buche wird der Situation des Arbeitnehmers in den Betrieben eine Betrachtung gewidmet. Die Gewinnbeteiligung wird ausführlich besprochen. Die steuerrechtlichen Fragen werden kurz beleuchtet.

J. E. Talbot, F.C.A.: *Recent Development in Taxation* — The Institute of Chartered Accountants in England and Wales, London, 1955, 34 pp.

Die heutige fiskale Entwicklung in England wird einer Betrachtung unterzogen. Behandelt werden u.a. die Gutachten der Royal-Commission betreffs der Besteuerung der Handelsgewinne, Pensionsverpflichtungen und Einkommen und Gewinn im allgemeinen. Daneben werden u.a. der Income Tax Act 1952, der Finance Act 1952-1955 und die wichtigsten Rechtsurteile kurz dargelegt.

V

COMMONWEALTH COMMITTEE ON TAXATION

INCOME TAX ASSESSMENT ACT 1936-1949

The Committee's Report to the Treasurer, The Rt. Hon. Sir Arthur Fadden, K.C.M.G., M.P., Dated 16th March, 1954 *

36. The Committee recommends for consideration the desirability of amending section 55 (1) to remove any doubts regarding the powers of the Commissioner to revise the rates of depreciation where reasons justifying such a revision are established to his satisfaction.

Single Rate of Depreciation for Each Class of Business

37. The suggestion referred to in paragraph 29 (*c*), that the rates of depreciation should be standardized in certain cases, might be considered in conjunction with another suggestion that the Depreciation Schedule should be simplified by omitting some of the detail, and by dividing it into major sections such as Manufacturing, Primary Production, Trading, Professional and Miscellaneous.

38. After careful inquiry and consideration, the Committee has reached the conclusion that the present schedule, and the method of applying the existing depreciation provisions, give general satisfaction to the majority of taxpayers and should not be disturbed. This conclusion is supported by the reports of decisions of the Boards of Review which show that few taxpayers have requested the Boards to review the Commissioner's decision on depreciation allowances.

39. As stated in paragraph 28, the majority of rates of depreciation fall within the range, 5 per cent to 20 per cent., but some rates are as high as 50 per cent., whilst others are as low as 1 per cent. Each of these rates has been fixed according to what experience has shown to be the average life of the particular item of plant, and must necessarily be more accurate than one single rate fixed to cover all items of plant. With a single rate, items with a short useful life would have to be scrapped or disposed of before the cost price had been fully recouped by depreciation allowances, whilst items with a comparatively long useful life would be fully recouped by depreciation before their useful life had ended. The Committee considers that taxpayers desiring to continue with the present system should be permitted to do so.

40. However, it is apparent from the representations made to the Committee that an appreciable number of taxpayers would prefer, for the sake of simplicity, to have one or two rates of depreciation only. As any insufficiency of depreciation resulting from the varying useful life referred to in the preceding paragraph would be adjusted when the plant was scrapped or disposed of, the Committee considers that the Act should be amended to enable a taxpayer to arrange with the Commissioner for a single rate, or less than the normal number of rates, of depreciation to be applied in his

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* Continued from Bulletin vol X no. 2, p. 124.

case. As a major step towards simplification of the preparation of business returns, and a reduction in the departmental work of assessing them, this is a procedure which might be widely recommended to taxpayers. In many business returns the following rates of depreciation apply —

	Per cent
Office Furniture	5
Lifts	6
Linoleum	7½
Typewriters	10
Carpets	20

Usually only small sums are involved, and a single rate could well be substituted.

41. The Committee recommends that the present system of allowing depreciation be continued where desired by the taxpayer, but that the Act be amended to enable a taxpayer to arrange with the Commissioner for a single rate of depreciation, or less than the present number of rates of depreciation, to apply to property in respect of which a deduction for depreciation is allowable. The onus of satisfying the Commissioner that the rate of depreciation sought by him would be just and reasonable under the circumstances, should be upon the taxpayer.

SECTION IV. — WASTING ASSETS

42. No depreciation is allowed under the Act on wasting assets, such as a patent or copyright, but section 62a permits an annual deduction of apportioned expenditure made pursuant to a Government franchise. The scope of the deduction for depreciation is restricted by section 54, under which a deduction is allowed only in respect of plant, as defined, or articles used in producing assessable income, or installed ready for use for that purpose. Items such as patent, or copyright, do not fall within the headings of "plant" or "articles".

43. It was represented to the Committee that assets, such as patents, drawings, models, designs, copyright, &c., are of a wasting nature, and that any expenditure incurred in acquiring these assets should be written off against future income over the effective life. In support of the representations, it was claimed —

(*a*) that the principle which applies to expenditure made pursuant to a Government franchise should apply to ordinary transactions between commercial firms;

(*b*) that the absence of an appropriate deduction has caused Australian concerns to enter into long-term royalty and service fee arrangements with overseas owners, instead of making an outright payment for a lower total cost; and

(*c*) that allowances of the nature sought are provided in most English-speaking countries, including the United Kingdom and the United States of America.

44. The United Kingdom Income Tax Act of 1952 provides two deductions in respect of expenditure on intangible assets of this nature, viz.: —

(*a*) Section 139 provides for the deduction of any fees paid, or expenses incurred, in obtaining the grant or extension of a patent, the registration or extension of a design, or the registration or renewal of a trademark.

(*b*) Section 316 provides an annual allowance (virtually depreciation) based on the cost price where a person incurs capital expenditure on the purchase of patent rights.

45. In its report on Reference No. 16: Ascertainment of Profits of Business for Taxation Purposes, the Committee recommended a deduction for expenditure of the nature dealt with in Section 139 of the United Kingdom Act. Therefore the Committee is concerned in this report only with the question as to whether expenditure on the purchase of rights should be the subject of a deduction along the lines of the annual allowance provided under section 316 of that Act.

46. It seems to the Committee that, in many respects, an amount payable for a right for a limited period is comparable with an amount payable for goodwill attached to a lease. For many years goodwill, so attached, was dealt with in the same way as a lease premium. Broadly, the amount paid for goodwill was deductible over the period of the lease, whilst the amount received was included in the assessable income of the recipient.

47. Following the amendments made in the Act by Act No. 90 of 1952, an amount paid for goodwill is not included as assessable income in the hands of the recipient, not allowed as a deduction to the perons making the payment, unless the contracting parties mutually agree to have the amount treated as a premium, and notify the Commissioner to that effect. Where such a notice is given, a payment for goodwill is assessable to the recipient, and is deductible to the person who makes the payment.

48. Notwithstanding the comparison made between a payment for goodwill and a payment for a right, the Committee believes that an option would prove less satisfactory in relation to purchased rights than it does in relation to goodwill. The reason is that consideration for a right is, in many instances, payable to a non-resident, whereas lease transactions are generally made between residents. Even where a party to a lease transaction is a non-resident, any income he derives in connexion with the grant of the lease or the leased property has an Australian origin which brings it within the scope of the Act. By way of contrast, the probabilities are that a non-resident who receives a payment for a right will not be liable to Australian tax on the amount so received.

49. The likelihood of purchase money being payable to a non-resident is considered by the Committee to be a sound reason why the allowance of a deduction to the purchaser of a right should not depend upon the purchase money being assessable in the hands of the recipient. If it is proper — and the Committee does not suggest otherwise — to allow depreciation on plant whether or not the amount paid for the plant is assessable in the hands of the recipient, it seems logical to follow the same reasoning, should a decision be reached to recognize the wasting nature of intangible assets of the kinds under discussion, and allow a deduction in regard thereto.

50. In the United Kingdom, no annual allowance is made to a person in respect of expenditure incurred in the purchase of patent rights unless —

(*a*) the allowance falls to be made to him in assessing the profits of a trade; or

(*b*) income received by him in respect of the rights is liable to income tax.

In the opinion of the Committee, the above are reasonable tests which should be applied in Australia.

51. The Committee recommends that the Act be amended to permit of the cost of rights purchased being allowed as a deduction, either by way of depreciation or other form of proportionate allowances, spread over the

years to which the rights relate, provided that the rights are used in the production of assessable income, or that any income receivable in respect of the rights would be assessable to the person claiming the deduction. The suggested amendment should provide for balancing adjustments corresponding to section 59 (1) and (2) in the event of the assignment of the patent or other rights.

SECTION V. — INDUSTRIAL AND COMMERCIAL BUILDINGS

52. The Committee has experienced great difficulty in reconciling the divergent views expressed upon this complex subject and no solution has been found which has the unanimous support of members. Partly for this reason, and partly because a depreciation allowance for buildings would be an innovation in the Act, it has been decided to deal with the subject in a separate report.

SECTION VI. — SUMMARY OF RECOMMENDATIONS

53. The following is a summary of the recommendations made in this report: —

(*a*) That section 54 (2) (*b*) be amended by substituting the words "primary production" for the words "agricultural or pastoral pursuits". (Paragraph 13).
(*b*) That section 58 be repealed. (Paragraph 15.)
(*c*) That section 59 be amended to enable the consideration receivable on "depreciated" property lost or destroyed to be dealt with in the same manner as in wartime. (Paragraph 20.)
(*d*) That consideration be given to the desirability of fixing separate rates of depreciation for the prime cost method and the diminishing value method. (Paragraph 32.)
(*e*) That taxpayers be granted an option of changing from the prime cost method to the diminishing value method if separate rates of depreciation are fixed for the two methods. (Paragraph 33.)
(*f*) That consideration be given to the desirability of amending section 55 (1) to remove any doubts regarding the powers of the Commissioner to revise the rates of depreciation where reasons justifying such a revision are established. (Paragraph 36.)
(*g*) That the Act be amended to enable a taxpayer to arrange with the Commissioner for a single rate of depreciation, or less than the present number of rates of depreciation, to be applied to property in respect of which a deduction for depreciation is allowable. (Paragraph 41.)
(*h*) That the Act be amended to permit of the cost of patent and other rights purchased being allowed as a deduction, either by way of depreciation or other form of proportionate allowance, spread over the years to which the rights relate, subject to certain conditions being met. (Paragraph 51.)
(*i*) That provision be made for balancing adjustments corresponding to section 59 (1) and (2) in the event of the assignment of the patent or other rights upon which deductions are allowed in pursuance of the preceding recommendation.(Paragraph 51.)

(Sgd.) S. B. HOLDER, Acting Chairman.
JOHN A. L. GUNN, Member
J. W. HUGHES, Member.
R. S. TURNER, Member.
GORDON WALLACE, Member.

The Committee's Report to the Treasurer, The Rt. Hon. Sir Arthur Fadden, K.C.M.G., M.P., dated 17th March, 1954.

SECTION I. — INTRODUCTION

The terms of Reference No. 18 embrace the provisions of the Act relating to depreciation. On all aspects of the subject, other than depreciation on buildings, the Committee has been able to make unanimous recommendations which appear in a report dated 16th March, 1954. This separate report deals with one subject only — depreciation on buildings — and the divergent views of members appear herein —

(*a*) Messrs. Holder, Gunn, Hughes and Turner are in general agreement regarding the form of a depreciation allowance for buildings, but not its scope. Their general views are contained in the body of the report and are followed by separate recommendations by Messrs. Holder and Turner (paragraph 50), and by Messrs. Gunn and Hughes (paragraph 51).

(*b*) The views of Mr. Wallace, who is opposed to depreciation on buildings, are set out separately later in the report (paragraphs 52 and 53).

2. Throughout this report, references to buildings relate to buildings as distinct from land, and include additions to buildings.

SECTION II. — INDUSTRIAL AND COMMERCIAL BUILDINGS

3. The Act does not provide for the allowance of a deduction for depreciation of industrial and commercial buildings as a class, but a depreciation allowance is granted in respect of certain special categories of buildings, namely —

(*a*) structural improvements on land used for the purpose of agricultural or pastoral pursuits;
(*b*) buildings erected by mining enterprises as part of the development of a mining property; and
(*c*) buildings which form an integral part of plant.

4. It was represented to the Committee that a building used in trade or commerce has a limited life, and that its cost should be written off over that life. It was claimed that there was no sound reason for treating buildings differently from plant. The allowance of a deduction for depreciation on buildings used for business purposes is sought, not as a concession to taxpayers engaged in business; but on the ground that it is a widely accepted accounting and economic principle that every building — in fact every asset — should be written off over its life. The point was taken that the principle has found a place in many overseas tax codes.

5. The Committee understands that depreciation on buildings is allowed in many countries, including the United Kingdom, the United States of America, Canada, India, France, Belgium, Holland, Sweden, Argentine, Mexico and Japan. It is understood that, in most of those countries, the allowance is based on the cost price to the present owner. A notable exception is the depreciation allowance in the United Kingdom, which is based on the original cost of construction.

6. The Committee understands also that, in most of the countries mentioned, a deduction for depreciation is allowed on both industrial and commercial buildings. Again, the United Kingdom is an exception, the deduction being limited to industrial buildings. However,. the Millard Tucker Committee on the Taxation of Trading Profits, has recommended that the depreciation allowance be extended to include commercial buildings.

7. The following extract from its report, dated 20th February, 1951, indicates the reasoning which led the Millard Tucker Committee to make its recommendation: —

194. In considering the question we have borne in mind that Income Tax is a tax on income; the existing Income Tax code neither taxes capital gains nor gives relief for capital losses. Nevertheless we do not think that there is any real contradiction between the general principle we have enunciated and the rule that no relief should be given in respect of capital losses. Assets may either diminish or increase in value as the result of wholly extraneous circumstances having no connexion with their use in the business. On the other hand, the wastage which we have in mind is that which is caused by the natural process of decay or exhaustion through use, for example, the physical deterioration suffered by a building or the exhaustion of mineral deposits. If a manufacturer buys a piece of land and erects a factory on it, the factory will depreciate over a period of years, and on our principle he ought to get an allowance in respect of that depreciation. The site of the factory, however, may not depreciate in value at all; even if it does, the depreciation will not be through use. He may indeed find that after a period of years the site is not so valuable as it was when he bought it because, owing to a change in population, the value of land in that particular locality has gone down. If on winding up his business, or moving his business to some other place, he incurs a loss on the sale of that site, the loss is not a loss incurred in the course of business but is a capitai loss in respect of which the existing Income Tax code should give no relief. Relief in respect of such a loss would be appropriate only if the tax system imposed liability on any appreciation in the value of the site.

8. This reasoning has as much force in relation to Australian conditions as to those in the United Kingdom. There is a case for the allowance of a deduction for depreciation of buildings used in producing assessable income. The Committee considers that any such allowance should, as a matter of principle, extend to all such buildings.

SECTION III. — CONSIDERATIONS AFFECTING BASIS OF ALLOWANCE OF DEPRECIATION OF BUILDINGS

9. A survey of the questions requiring consideration in relation to a depreciation allowance on buildings indicates that before the form of such an allowance could be approved, decisions would have to be made in regard to the following matters: —

(*a*) the rate of annual depreciation;
(*b*) whether the calculation of depreciation is to be made according to —
  (i) the diminishing value method;
  (ii) the prime cost method; or
  (iii) a combination of both;
(*c*) whether the first calculation of depreciation should be based on —
  (i) the original cost of construction;
  (ii) the cost to the present owner; or
  (iii) the present market value;
(*d*) whether the deduction for depreciation should be allowed —
  (i) on all existing and future buildings; or
  (ii) only on capital expenditure on buildings incurred after a specified date;
(*e*) the commencing date from which the depreciation allowance should operate;
(*f*) whether a notional calculation should be made of the non-allowable depreciation up to the commencing date referred to in sub-paragraph (*e*) of this paragraph, and if so —

(i) the method of calculation (cf. subparagraph (*b*) of this paragraph); and
(ii) the basis of calculation (cf. sub-paragraph (*c*) of this paragraph);
(*g*) the basis of determining values where original records are no longer available;
(*h*) whether there should be any balancing adjustment where property is disposed of or demolished.

10. These matters are considered in more detail in later sections of this report.

SECTION IV. — RATE OF ANNUAL DEPRECIATION

11. The effective life of a building varies according to the nature of its construction, the use to which it is put, and the climatic conditions to which it is subject. The factors mentioned suggest that different rates of depreciation should be provided according to circumstances, but the Committee is impressed with the practical difficulties of applying varying rates, and considers that a standard rate of depreciation applying to all income-producing buildings would be much more practicable.

12. There appears to be a divergence of rates in the countries mentioned in paragraph 5. In some countries the rates are not specified, but are determined by the type of construction, and the use to which the building is put. In others, the rates are specified, but are subject to variation — sometimes at the option of the taxpayer. Examples of specified rates are —

United Kingdom — 2 per cent. on prime cost;
United States — 1½, 1⅔ and 2 per cent. on prime cost;
Canada — 5 and 10 per cent. on diminishing value;
France — Normally 5 per cent. on prime cost;
Sweden — 1 to 3 per cent. on prime cost — companies may claim the amounts charged in their audited accounts;
Argentine — 2 and 3 per cent. on prime cost;
Japan — 1.4 to 10 per cent. on prime cost, 3 to 20.6 per cent. on diminishing value.

13. In the opinion of the Committee, the choice of a rate of depreciation for buildings should be sought in the vicinity of 1 or 2 per cent. per annum.

SECTION V. — PRIME COST AND DIMINISHING VALUE METHODS OF CALCULATING DEPRECIATION

14. An important point for consideration is whether depreciation on buildings, if allowed, should be calculated under the prime cost method, the diminishing value method, or under either method according to an election made by the taxpayer. In the latter event, the question arises as to whether any such election should be irrevocable.

15. Under Section 56 (1) of the Act, a taxpayer has the right to elect to have depreciation on his plant calculated under the prime cost method, in lieu of the diminishing value method. This latter method applies automatically in the absence of such an election. Income Tax Regulation 7 (2) prescribes that a notification exercising an option to have depreciation calculated under the prime cost method shall apply to all units of property in respect of which depreciation is allowable under the Act.

16. The Committee considers that any option already exercised by a taxpayer to claim depreciation on prime cost of plant and other property should not apply to depreciation on buildings. Taxpayers should be entitled to exercise a separate option in relation to buildings.

SECTION VI. — VALUE ON WHICH DEPRECIATION SHOULD BE CALCULATED

17. The value of buildings on which a depreciation allowance should be calculated in the first instance may be fixed according to one of three methods viz.: —

(*a*) the original cost of construction, irrespective of any change in ownership, as adopted in the United Kingdom;
(*b*) the cost of acquisition to the present owner; and
(*c*) the present market value.

18. A selection of one of these three methods does not entirely dispose of the question of values. Having made a selection, a further decision would have to be made as to whether a notional calculation should be made to write down the selected value because depreciation has not been allowed in past years. This matter is dealt with in Section IX. of this report.

19. Practical difficulties are inherent in each of the methods of fixing values mentioned in paragraph 17.

Cost of Construction Method

20. Where a property has remained under the same ownership since the date of construction of a building, and the owner has retained proper records of the cost of the building, no great difficulty should be experienced in determining its original cost. But in the majority of cases this information would not be available.

21. Few, only, of the older buildings, would have remained in the hands of the original owners, and few of the present owners would have sufficient records available to show the original cost of such buildings — particularly where a previous owner is deceased, or was a company which has been wound up.

22. Where it is impracticable to ascertain the actual cost of construction of buildings, an alternative would be to adopt a scale of arbitrary costs based on an index of building costs. (The Committee is informed that such an index was used in the United Kingdom when a depreciation allowance on industrial buildings was introduced in 1946). A schedule would be provided setting out minimum values based on the nature and year of construction of a building and its area or cubic content. The schedule could be compiled on a conservative basis, and the allowance could be so expressed that the value ascertained from the schedule would apply, subject to the taxpayer having a right to prove higher actual expenditure.

Cost of Acquisition Method.

23. Method of allowing depreciation according to the cost of acquisition to the present owner would have the advantage that the cost could be more readily ascertained. However, certain aspects of this basis would require consideration before it could be adopted.

24. During recent years many properties have been sold for sums greatly in excess of their original cost. It follows that a depreciation allowance on a building which had been sold for a price in excess of cost of construction would be greater than on one where the ownership had remained unchanged, but as between the present owners, the allowance would be on a consistent basis, namely, the cost to the present owner.

25. The problem of dissecting the price between land and buildings would arise under this method in every instance where a property has been sold

since the date of construction of the building. As mentioned in the preceding paragraph, properties have been selling at enhanced values in recent years. These enhanced values may be attributed partly to the land and partly to the building. There may even be instances where the value of one has increased and the other decreased.

26. In many cases a dissection between the value of the land and the value of the building has already been made by the Federal Land Tax Department on the sale of buildings between 1910 and 1951, but the early records may not still be available.

27. The present taxation law is not concerned with either profit or loss on the sale of land or buildings unless the vendor deals in properties. An allowance based on the cost of all buildings to their present owners would result in the Commissioner allowing depreciation on increasing values paid by successive purchasers of buildings without any compensating yield to revenue, as tax would not be levied on profits derived on sales by successive vendors.

28. The consensus of opinion of the Committee is that, if depreciation is to be allowed on existing buildings, the United Kingdom method of fixing the amount upon which the first calculation of depreciation should be based should be followed, i.e., the allowance should be based on the original cost of contruction, and not on the cost of acquisition to the present owner. In expressing this opinion, the Committee considers that the following passages from the Millard Tucker Report (ibid.) are in point: —

211. The general principle which we have set out in paragraph 193 above namely, that the owner of a business should be allowed to write off all expenditure on assets used up in the course of his business, would lead logically to acceptance of the view that the allowances to the owner of a business in respect of fixed assets used by him in his business should not be limited to the first cost of that asset, but should be given by reference to his actual expenditure. Logic, however, is not necessarily a safe guide in matters of this kind, and, as we have already said, the principle may, in a practical world, require modification before it can be applied to any particular class of asset. In the present connexion the question immediately arises whether it is reasonable and practical to give relief to the purchaser of, say, an industrial building on the full amount of the purchase price, without charging the seller on any profit that he makes. There is considerable force in the argument that the profit which the seller makes represents the capitalized value of anticipated future profits to be earned by the purchaser, and that it would be wrong to give an allowance to the purchaser on the excess of the purchase price over first cost, unless that excess were taxed in the hands of the seller.

212. To impose such a charge on the seller would, however, be, in effect, to tax him on a capital gain, and any such proposal is clearly outside our terms of reference . . . The first cost of buildings built a number of years ago, but nevertheless qualifying for industrial buildings allowance, has now been ascertained, if not without difficulty, at any rate without serious trouble . . . Where records were not available it was usually possible for the taxpayer and the Inland Revenue to agree upon a figure by reference to such data as the cubic capacity of the building, and the known trends of building costs in the year of construction. If, however, the allowances were based on cost to the present owner of the business, it would be necessary in a large proportion of cases to apportion a purchase price paid many years ago between, on the one hand, qualifying buildings and, on the other, the site and perhaps non-qualifying buildings and other assets. Such an analysis may have to be made for the purposes of the existing industrial buildings

allowance when an industrial building is sold, but the difficulty of analysing such a transaction at the time is smal compared with what would be involved in analysing a transaction which took place many years ago.

213. While, therefore, we are conscious that the limitation of allowances to first cost conflicts with our general principle, we have come to the conclusion that on balance the existing system for industrial buildings should be retained, and, further, that it would be adopted for the allowances which we recommend for commercial buildings. If it ever comes about that the scope of the tax is broadened so as to bring into charge either capital gains generally or, in particular, profits arising to the owner of a business from the sale of his fixed assets, so that the seller of an industrial building will be liable to tax on his profits, then the claim of the purchaser that the amount on which his allowances are computed should include that profit, may prove irresistible despite the administrative difficulties involved; we do not think, however, that the claim should be met in present circumstances.

Present Market Value Method

29. The Committee does not favour the third basis mentioned for allowing depreciation on buildings, i.e., according to the present market value of the building. The objective of depreciation is to allow a deduction each year for an appropriate part of the cost of property which depreciates by use in the production of assessable income. The Act does not apply a market value for any other depreciable property, and, generally speaking, this basis does not apply in other countries. Moreover, the problems associated with the obtaining of reliable valuations of all properties used in the production of assessable income are so great as to make this method impracticable.

SECTION VII. — WHETHER DEPRECIATION SHOULD BE ALLOWED ON ALL BUILDINGS, OR ONLY ON CAPITAL EXPENDITURE INCURRED AFTER A SPECIFIED DATE

30. Two important decisions are necessary following consideration of the questions involved under this heading, viz.: —

(*a*) the cost to the revenue; and
(*b*) the practicability of allowing depreciation on all existing, as well as on future buildings.

31. The question of revenue is one of government policy. The Committee refrains from making comments in regard thereto, except to say that, by allowing a deduction on all buildings used in the production of assessable income, the amount involved must necessarily be substantially greater than would be the case if the deduction were limited to buildings erected after a specified date. There are no statistics available to the Committee which would enable it to make a reliable estimate of the cost, or present depreciated value, of income-producing buildings.

32. The second question has been outlined in Section VI. under the heading "Value on which Depreciation should be Calculated", and the views of members of the Committee are stated in paragraphs 50 and 51.

SECTION VIII. — COMMENCING DATE FROM WHICH DEPRECIATION ALLOWANCE SHOULD OPERATE

33. If Parliament decides not to allow depreciation on all buildings used in the production of assessable income, but to limit the allowance to future expenditure on buildings, the Committee considers that depreciation should

be allowed on expenditure incurred on the construction of, or additions to, all buildings after a specified date, namely, the beginning of the first year of income for which the allowance is granted under the Act. A taxpayer who purchases a building on which the vendor was allowed depreciation should not be allowed depreciation on a value in excess of the cost of construction, and the principle of section 60 (1) should apply.

SECTION IX. — WHETHER CALCULATION SHOULD BE MADE OF NOTIONAL DEPRECIATED VALUE AT COMMENCING DATE

34. The calculation of a notional depreciated value at the commencing date will arise if Parliament decides to grant a depreciation allowance on existing buildings, or to allow a deduction on the disposal or demolition of existing buildings.

35. Depreciation of buildings (other than those forming an integral part of plant and those used by primary producers and the mining industries in the production of assessable income) has not been allowed since the inception of Federal Income Tax in 1915.

36. If depreciation were allowed without writing down the cost price of buildings to a depreciated value at the commencing date, the revenue would be affected adversely on the disposal of buildings. If buildings were demolished, or sold for less than the cost price (after adjusting depreciation allowed in assessments), without regard to depreciation which had taken place prior to the commencing date, substantial sums could be allowable deductions. The following example illustrates the manner in which a substantial loss could be allowable without any appreciable compensating gain to the revenue: —

	£
Assume that a building was erected, say, 60 years before the commencing date at a cost of	10,000
Depreciation allowed for two years, say	200
Depreciated value if building then sold	9,800
If building sold for	3,000
Allowable deduction if building were not written down to its depreciated value at commencing date	6,800

37. The Committee is of the opinion that, should a depreciation allowance for existing buildings be decided upon, the deduction should be based upon a depreciated value, ascertained as if the rate of depreciation decided upon had applied annually since the date of erection of the building. On this basis, the allowable deduction in the example in the preceding paragraph would be reduced to £800, arrived at as follows: —

	£
Cost of building, as above	10,000
Notional depreciation from date of construction to commencing date, say	6,000
Depreciated value at commencing date	4,000
Two years' depreciation, say	200
Depreciated value at date of sale	3,800
Building sold for	3,000
Allowable deduction	800

38. The only compensating gain to the revenue would be the balancing charge included in the assessable income of a taxpayer selling for more than the depreciated value, a building upon which depreciation had been allowed. Adopting the principle of section 59 (2), such a balancing charge would be limited to the amount actually allowed for depreciation.

SECTION X. — BASIS OF DETERMINING VALUES WHERE ORIGINAL RECORDS NOT AVAILABLE

39. As stated in paragraph 22, it is considered that it would be necessary to provide a scale of arbitrary values, based on the nature, size and age of buildings, if Parliament decided to extend a depreciation allowance to existing buildings.

40. As it would be impracticable for the Commissioner to satisfy himself as to the correctness of claims in the first year, and in order to avoid delay in issuing assessments, it is considered that a special provision should be enacted authorizing the Commissioner to adjust values and depreciation allowances at any time during a period of, say, six years from the commencement of the allowance, where he finds such adjustment to be necessary. At the discretion of the Commissioner, the aggregate amount allowed as depreciation could be adjusted in the year in which the need for adjustment became apparent, or any one or more of the assessments already made could be amended for the purpose of making the adjustment.

SECTION XI. — WHETHER BALANCING ADJUSTMENTS SHOULD BE MADE WHERE BUILDING IS DISPOSED OF OR DEMOLISHED.

41. Section 59 (1) of the Act permits a deduction of the amount by which the depreciated value of plant exceeds the consideration receivable on the disposal, loss or destruction of such plant.

Throughout this report, such a deduction is described as a "balancing allowance".

Section 59 (2) of the Act requires the inclusion in assessable income of the excess of consideration receivable on the disposal, loss or destruction of plant over the depreciated value of such plant.

This excess so included is limited to a maximum sum equal to depreciation allowed in respect of such plant in past assessments, and in this report such excess is described as a "balancing charge".

42. It is the opinion of the Committee that the principles of Section 59 should apply to buildings and that balancing adjustments should be made upon the loss, disposal or demolition of buildings upon which depreciation has been allowed as a deduction. Thus, where a building is sold for an amount in excess of its depreciated value, i.e., original cost less depreciation notionally calculated and actually allowed, so much of the surplus as does not exceed the total depreciation actually allowed in assessments should be brought to account as assessable income. Where the proceeds are less than such depreciated value, an amount equal to the difference should be allowed as a deduction.

43. As indicated in the preceding paragraph, the Committee considers that depreciation which occurred prior to the operation of the new provision should not become an allowable deduction.

44. Where a purchaser of a building acquires it at a price in excess of the vendor's depreciated value, the depreciation allowable to the purchaser should be based on a value not exceeding the sum of such depreciated value and the amount included in the assessable income of the vendor as a balancing charge.

45. Where a purchaser of a building acquires it at a price less than the vendor's depreciated value, the depreciation allowable to the purchaser should be based on the price at which it is acquired..

SECTION XII. — ALLOWANCES UPON LOSS, DISPOSAL OR DEMOLITION OF BUILDING IN LIEU OF DEPRECIATION

46. A somewhat modified plan of allowing depreciation on existing buildings could be effected by providing for balancing allowances only. Depreciation would not be allowed annually, but a balancing allowance in lieu of depreciation would be made upon the loss, disposal or demolition of a building. This plan would require that a valuation of the building be made only in the event of a building being lost, disposed of, or demolished, and then only if the consideration receivable by the owner was less than the depreciated value of the building at the commencing date of the depreciation allowance. An owner who sold at a profit would not normally be liable to tax on any part of the profit, as a deduction for depreciation would not have been allowed in his assessments.

47. It will be seen that this plan would largely overcome the administrative problem of having all existing buildings valued if annual depreciation were to be allowed on those buildings. If such a plan were adopted, the loss allowable as a deduction should be calculated by reference to —

(*a*) the original cost of construction reduced by the amount of notional depreciation calculated to the commencing date; and

(*b*) the cost of acquisition to the taxpayer entitled to the deduction;

whichever is the less.

SECTION XIII. — ELECTIONS BY TAXPAYERS

48. The Committee considers that taxpayers should be granted an option either —

(*a*) to claim annual depreciation on buildings, but subject to any necessary balancing adjustment on loss, disposal or demolition; or

(*b*) to refrain from annual depreciation, but to be entitled to a balancing allowance, where appropriate, on loss, disposal or demolition.

49. Any option already exercised by a taxpayer to claim depreciation on prime cost of plant and other property should not apply to depreciation on buildings. Taxpayers should be entitled to exercise a separate option in relation to buildings.

SECTION XIV. — RECOMMENDATIONS OF MESSRS. HOLDER AND TURNER

50. Apart from the recommendations included in the joint report, Messrs. Holder and Turner recommend —

I. (*a*) That depreciation be allowed on all income-producing buildings (existing and future).

(*b*) That the depreciation allowance be based on original cost of contruction reduced, in the case of existing buildings, by notional depreciation for the period prior to the commencing date.

(*c*) That an arbitrary index of costs of construction be prescribed for buildings constructed prior to the commencing date, subject to the taxpayer having the right to prove higher expenditure.

(*d*) That the Commissioner be authorized —

(i) to amend assessments at any time within six years after the commencing date to adjust any incorrect allowance for depreciation on buildings; and

(ii) to include any such adjustment in the assessment relating to any year of such six-year period.

II. Alternatively; if it be decided to grand annual depreciation on future buildings only, that a balancing allowance should be granted upon the loss, disposal or demolition of existing buildings.

SECTION XV. — RECOMMENDATIONS OF MESSRS. GUNN AND HUGHES.

51. Apart from the recommendations included in the joint report, Messrs. Gunn and Hughes recommend —

(*a*) That, on the grounds of the impracticability of extending a depreciation allowance to all existing buildings, depreciation on income-producing buildings be allowed only in respect of buildings erected, and in respect of additions made to existing buildings, on and after the beginning of the financial year in which the deduction for depreciation commences.

(*b*) That, subject to the qualifications stated in the preceding sub-paragraph, we agree with the recommendations of Messrs. Holder and Turner.

(*c*) That, should Parliament decide to allow depreciation on existing buildings, or, alternatively, to make a balancing allowance upon the loss, disposal or demolition of existing buildings, we concur entirely with the bases recommended by Messrs. Holder and Turner.

(Sgd.) S. B. HOLDER, Acting Chairman.
JOHN A. L. GUNN, Member
J. W. HUGHES, Member.
R. S. TURNER, Member.

SECTION XVI. — VIEWS AND RECOMMENDATIONS OF MR. WALLACE

52. I am opposed to the allowance of depreciation on either industrial or commercial buildings, and irrespective of whether such an allowance were confined to new buildings and reconstruction or extended to existing buildings, for the following reasons: —

(*a*) It is a departure from the scheme of an Act which professes to tax income and not capital in that —

(i) buildings, as opposed to most items of plant, last several generations and their acquisition, whether by purchase or descent, cannot legitimately be regarded as a normal outgoing incurred in the production of income;

(ii) as opposed to most items of plant, buildings and the land on which they are erected, have greatly increased in value over the past fifty years, yet no tax is paid on such capital accretions;

(iii) many companies and shareholders have taken advantage of Section 44 and have re-valued their industrial and commercial buildings and have issued tax-free bonus shares to their shareholders out of the profits arising from such re-valuations. To allow depreciation on such buildings seems to me quite foreign to an Income Tax Act and unjust to the general body of taxpayers.

(*b*) In view of permanent or semi-permanent Treasury commitments (such as social services, defence and the Snowy Mountains Authority, to name but a few), it seems reasonable to assume that such a substantial concession to a minority could only be implemented by additional burdens on the general body of taxpayers. This position could only be justified if the necessity or justice of the case urgently impelled it; but I find nothing in the history of Commonwealth taxation since 1915 which indicated that this concession should be added. Logically, it would be more just to grant some form of allowance to professional men whose capital assets, generally acquired at considerable expense, are their professional qualifications and skill, which depreciate to nil during their lives and are used in the production of income.

(*c*) There would be serious difficulties and anomalies in introducing and administering such a concession. Thus, one view is that it should be confined to future building work. This would be comparatively simple to administer, but would not overcome my earlier objections and would create an additional one, namely, it would have an element of injustice to at least some of the owners of existing industrial and commercial buildings. Another view is that it should extend to all such buildings on an original cost basis, or some qualification thereof of an arbitrary nature designed to lessen admitted administration difficulties. But it would seem that once the field of existing buildings is entered, no qualification or device could be designed which would overcome within a reasonable time or with reasonable expence the bristling difficulties which would be encountered. It is not, I think, to the point that a somewhat limited form of the proposed concession has been granted in England, because real estate conditions are not comparable, moreover, any comparison with England and other countries on this subject would involve an over-all comparison of other benefits given to owners and the rates of tax. A third view is that the concession should be confined to industrial buildings with or without a further limitation to future buildings of this type, no doubt with the objective of encouraging or assisting factory activities. Apart from the injustice to owners of commercial buildings, this view meets its answer, so far as this Committee is concerned (if we are to be consistent), by repeating what we have said on several other references; that if any industry or group requires paternal assistance from Parliament, the proper medium is not the field of income tax but by subsidies or some similar direct method. This is not a view which I have subscribed to with enthusiasm, but it has been presented as the voice of this Committee so often that I fail to see why it should, in this, the last reference to be dealt with by the Committee, be now resiled from in favour of factories.

53. If my views should not obtain, and it be decided as a matter of policy that depreciation in some form should be granted, then I am distinctly of opinion that the concession should be limited to future activities, but should extend to both industrial and commercial buildings.

(Sgd.) GORDON WALLACE, Member.

UNITED STATES-UNITED KINGDOM INCOME TAX CONVENTION

T.D. 5569, *C.B.* 1947-2, 100, *Section* 7.521: *Rev. Rul.* 56-24 *Compensation for labor or personal services.*
(*also Part* 1, *Section* 871).

The word "day" as used in relation to article XI (1) of the income tax convention between the United States and the United Kingdom of Great Britain and Northern Ireland, T.D. 5569, C.B. 1947-2, 100, with respect to the exempt status of compensation for personal services performed by a resident of the United Kingdom who is present in the United States for a period or periods not exceeding in the aggregate 183 days during the taxable year, is interpreted for United States income tax purposes to mean a day during any portion of which the resident of the United Kingdom was physically present within the United States. This interpretation will apply equally to all income tax conventions containing similar provisions.

Source: *Internal Revenue Bulletin*, 1956 *No.* 4

GREAT BRITAIN

WHAT THE CHANCELLOR SAID

In his first Budget Speech, the Chancellor of the Exchequer, Mr Harold Macmillan, referred at some length to the monetary policy of the Government and then went on to say:

The budget surplus

Monetary policy and fiscal measures must go hand in hand. Today we are concerned with another instrument which I have in my mind — the Budget and the Budget policy. Is a surplus of £445 million enough? Is it too much? It is human to err. But I think I would rather err on the safe side.

A misjudgment on the side of over-optimism might have the gravest results. Any heightening of the inflationary pressure — indeed any delay in reducing it — might prove disastrous. But an error in the opposite direction would be far less harmful — and far more easily remedied. If we want to reverse the process and increase purchasing power or generally to reinflate, it would be simple to do so.

We have learned only too readily how to turn the taps on. But even Lord Keynes never told us how we were to turn them off a bit. Indeed, I rather look forward to the day — should we have gone a little too far in a policy of restriction — when a joint deputation from the F.B.I. and the T.U.C. comes to see me asking for the abolition of surtax and profits tax, and the immediate reduction of all indirect taxation. It is very easy to do it the other way if we go a little too far in one direction.

On the other hand, I am determined that this budget should dispel any lingering doubts, at home or abroad, as to the determination of Parliament and the people to secure the welfare and solvency of the nation. Therefore I have decided that any benefits which I may have to propose shall make no inroads on next year's surplus. Indeed, the surplus must be fortified rather than depleted. In other words, any prizes which may be distributed must be more than balanced by impositions.

New certificates

The National Savings Certificate is by common consent the leading small savings security. The current issue yields £3 0*s* 11*d* per cent tax free, if held to maturity in ten years. I feel justified in offering the small saver a higher return, and a shorter period in which to earn it.

There will therefore be a new issue opening on August 1st of a 15*s* Certificate rising to 20*s* in seven years. The yield, if held to maturity, works out at £4 3*s* 11*d* per cent tax free. The limit on holdings of the new issue will be 600 units. Till August 1st, the current issue will remain on sale, and I would urge everyone who can not to miss the chance of increasing his holding of the current issue before it closes. For the benefit of savers who already hold the maximum I am raising the limit on holdings of the current issue from 1,200 units to 1,400 units.

4½ per cent defence bonds

Next, the Defence Bond. Here again I feel justified in offering the saver a higher return. On May 1st the current 4 per cent issue will be closed,

and a new issue will open yielding interest at 4½ per cent and encashable at par on six months' notice, but with a premium of £2 per cent if the bond is held for five years, or £5 per cent if it is held for its full currency of ten years.

The Post Office and Trustee Savings Banks are integral parts of the savings movement. Money saved in these institutions, is effectively lent to the Exchequer. The rate of interest, fixed by statute since the last century, is 2½ per cent. I do not propose to change that. I believe that the savings movement is better off with a savings bank-rate that does not fluctuate with the market but stays fixed whether money in the market is cheap or dear.

But I do propose to accept another proposal which the savings movement have often put forward. I do not think they have ever been very sanguine that any Chancellor would agree to it, but I propose to accept it. I propose to exempt from income tax the first £15 of income accruing to an individual from deposits in the Post Office Savings Bank or the ordinary department of a Trustee Savings Bank.

Naturally no more than £15 will be exempted in the hands of one individual, however many deposits are held. Moreover this interest, grossed up by reference to income tax at the standard rate, will be chargeable to surtax. The cost to the Revenue, as regards existing deposits, will be about £8 million in 1956-57 and about £10 million in a full year.

The exemption from income tax does not apply to interest earned by deposits in the Special Investment Department of the Trustee Savings Banks. This is the field in which the banks can use their initiative to earn good rates of interest for their depositors, by judicious investment on terms which take full advantage of present market yields. I want to be sure that the banks have full scope for this activity. The law at present sets a limit of £1,000 on the amount that a depositor may hold in the Special Investment Department. I am laying an Order before Parliament, which will take effect early in June and will raise the limit to £2,000.

I propose to give effect, though in a simplified and modified way, to the recommendations of the second Millard Tucker Committee on relief to the self-employed in respect of provision for retirement. This will grant relief from income tax and surtax, within certain limits, in respect of premiums paid to provide a deferred annuity on retirement.

The relief will apply to professional men in practice, to individuals and partners who are not companies, to controlling directors of companies and, finally, to employees who are not entitled to any benefit under schemes set up by their employers. It will be a condition of relief that the benefits secured by the premiums shall be payable only as annuities and not as lump sums.

The relief will be limited to premiums not exceeding £500 or 10 per cent of earned income in any one year. The cost to the Revenue of this relief will be small in the first year, perhaps £7 million, but may rise to some £30 million to £50 million in subsequent years, according to the extent to which advantage is taken of the relief. But, as I expect it to lead to a large amount of new savings, the effect on the economy should be the reverse of inflationary.

Annuity Funds

The scheme covers a very wide range. The potential beneficiaries will be very numerous. The self-employed themselves number perhaps 1½ million. They range from the city accountant to the village grocer. There are the many employees whose jobs are not pensionable. For all these, the scheme will be a measure of fiscal justice. It will also increase the savings that we want.

As a corollary of this new relief, I propose to carry out a related recom-

mendation of the Tucker Committee and to relieve from income tax the annuity funds of life assurance companies, in so far as they represent invested premiums arising from deferred annuity business for the self-employed or from the reinsurance of approved superannuation funds. This will cost about £500,000 in 1956-57, but the cost will increase later.

I also propose to give effect to the Tucker Committee's recommendation that purchased life annuities not connected with a pension scheme should no longer be taxed in full, but that the part representing a return of the purchase money should be exempt. This will be of considerable benefit to those who are too old to secure any great advantage from the deferred annuity scheme. It will cost about £1 million in 1956-57 and about £2 million in a full year.

Now I come to an old love of mine — the owner-occupier. There is no better stimulus to saving than house ownership and I believe that many more people will commit themselves to it if the initial costs are reduced.

I therefore propose to reduce the rate of stamp duty on house purchase. The present rates are 10*s* per £100 up to £500, with a sliding scale up to £3,540, when the rate becomes £2 per £100. The new rates will be 10*s* per £100 up to £3,500, with a sliding scale up to £5,000. Above £5,000 the full rate of 2 per cent will apply. This relief will cost £4 million this year and £6¼ million in a full year. But it will help savings.

Premium bonds to be introduced — prizes free of tax

Finally, I have something completely new for the saver in Great Britain — a premium bond. Let me say at once that this is not a pool or a lottery where you spend your money. The investor in the bond I propose is saving his money. He will get it back when he needs it, but as long as he holds it saved, his reward instead of interest is the chance of winning a tax-free prize. The idea is, of course, not novel. Various forms of it have been advocated in the Press recently, and schemes of this kind are being operated by the State in more than one overseas country.

Hitherto the State in this country has fought shy of using chance as an incentive to save. Why? I can suggest two reasons. First, there has been the fear (I hope to show the unreasonable fear) of moral objections to rewards for saving based on chance. Secondly, there has been a reluctance to lay out the organization that must be made ready before the public can be invited to subscribe, with the risk that the public may or may not like it. But I have reached the conclusion that the moral objection is not really valid, and that the prospects of success make the outlay on organization well worth while.

First ideas

Let me deal with the moral factor. This is not gambling, for the subscriber cannot lose. This is an encouragement to the practice of saving and thrift by those members of the community who are not attracted by the reward of interest, but do respond to the incentive of fortune. My object is to invite the people to save for interest, or save for the chance of a prize, according to their preference.

The details of the scheme will be announced later for they cannot be settled before the organization has been built up, and there is a great deal of organization to do. Here is an outline of the essential features.

It will be a £1 bond. There will be a limit on individual holdings, for we want the savings of ordinary people. The limit might be 250 to start with, or a little more. I am not quite certain. A holder will get back his £1 on giving due notice. Each £1 bond that has been held for a fixed period will qualify for a draw to take place every three months. The number and amount of the prizes is not yet finally settled. I have in mind to give an

annual prize fund equal in amount to 4 per cent of the bonds drawn, divided into prizes ranging from a few top prizes of £1,000 to a larger number of prizes of smaller amount.

To handle the new money subscribed to these bonds on the large scale which I confidently expect, the Postmaster-General has a big organization to plan and build up and that, of course, coming on top of all the work which I hope my proposals affecting savings certificates and defence bonds will be giving him in the coming months. The premium bonds have to be printed in large numbers. They will be held as savings — that means that he must organize a register.

The drawing arrangements are by themselves a novel administrative problem. For all this, premises must be obtained and equipped and staff recruited and trained. The Post Office must be given time to get ready. I doubt whether we shall be ready at the end of this year. This cannot be done before the new year.

This interval can be put to good use by the National Savings Movement. Naturally, I have not been able to consult the movement in advance. But I hope that after studying the terms they will feel that it preserves and encourages saving.

I offer all this new range of securities as a challenge to the National Savings Movement. The securities are really attractive to every class of saver. To make them so, I have broken rules. It is now up to the movement to break records.

Government expenditure

I now come to another field in which the Government must make an effort of saving parallel to that which it is urging on private individuals. That is the field of Government expenditure. We all know how difficult has been the task of effecting real economies. But we must be frank. War and the conditions following war produce a general atmosphere in which the whole idea of economy is necessarily weakened. We have to make a new effort, and get back to the point of view that however small a saving may be, it is worth making.

In my room at 11 Downing Street there is a picture of Mr Gladstone, a copy of the famous Millais portrait. I am told that some former Chancellors (I will not specify them) could not stand those eyes looking at them, day by day, reproachful and nostalgic. The picture was, therefore, during certain periods removed. Anyway, it is there now. We must all admit there was a great deal to be said for the older approach. In those days it was the expenditure that had to be justified, and not the reduction in it.

Defence changes

As regards defence expenditure, the net estimates for this year do not show any increase in spite of rising costs. Indeed, making allowances for the new rates of pay for the armed forces (which are likely to cost an extra £70 million), the real pressure of the Defence Bill upon our resources of man-power and materials should be smaller. Nevertheless, the task of adapting the needs of defence to new interpretations of strategical and tactical concepts must go on all the time.

I am authorized by the Prime Minister to say that he and the Minister of Defence, with the other Ministers concerned, are taking special steps to ensure that the defence programme and particularly those items most affected by recent changes in strategic thinking are adapted to the new conditions as soon as possible and with maximum regard to the need for economy. I am sure that we shall be able to find worth-while savings as a result.

So far as civil expenditure is concerned, without injury to the purposes

which are common to us all, I believe there is still room for economy. Even modest economies are worth making. They can be made both in central and local government, if economy is the order of the day — if people are economy minded.

The Prime Minister announced in his Bradford speech that we are determined to make savings in administration. He put as the objective a reduction of 10,000-15,000 in the Civil Service. I believe this can be done, and perhaps still more can be done. Any economies, of course, whether in defence or in civil expenditure, fall into different classes; some become immediately operative; some only help us a little in the first year but fructify in future years.

Administrative economies

It is normally the practice for the estimates to be discussed in the course of the autumn between Government departments and the Treasury. They are finally settled by Ministers in the early months of the calendar year, so that they can be presented to Parliament at the proper time. This year the Government have decided that a review of all Government expenditure, civil and military, should be put in hand at once. It wil be continuous and comprehensive. It is an essential part of the effort which the whole nation is asked for this year.

It has often been suggested that this work should be undertaken by some outside body. There are precedents for this. But I do not think that this is the right means to adopt. Ministers are responsible and they must carry their responsibility. Although there are many individual detailed matters in which outside advice can be helpful to a Minister, yet it must be the Cabinet as a whole that must be responsible.

In any case we intend to do this work ourselves. With the full approval of the Prime Minister and my colleagues I can say that we are determined that this economy drive should bring us, over the whole field, savings amounting to not less than £100 million in this current year on services provided for in the estimates as published.

Minor provisions, designed to maintain and strengthen the Tax Code are to be included in the Finance Bill.

Investment allowance

The Finance Bill will, of course, contain the clauses to give effect to the Government's decision to suspend investment allowances which has already been announced. In my February statement I made two exceptions to the general rule. These were shipping and scientific research. Their investment allowance will remain. To these I now propose to add approved fuel-saving equipment which is installed by way of replacement or modification in existing industrial premises. I think these three have an absolute priority today. The Bill will also contain legislation to correct defects in the profits tax law, which were revealed by decisions of the Courts last year in cases known to the initiated as *Heelex* and *Universal Grinding Wheel.*

I propose to carry out the Royal Commission's recommendation that expenditure on what is known as cutting and tunnelling in connection with an industrial building or structure — and this will include dredging — should qualify for capital allowances including the initial allowance. This will be of particular importance to the construction of dry docks.

I propose also certain changes, based broadly on the recommendations of the Royal Commission, in the basis of taxation of foreign employments; and a change in the residence rules so that in future an employee who goes to work wholly abroad will have his tax liability dealt with on the same basis, whether or not he continues to maintain a home in this country.

In estate duty I propose to remove a hardship which can arise where

an annuity is charged on settled property, and to carry out an undertaking of my predecessor to grant relief from duty in certain cases of compulsory purchase of land. There will be a number of other minor proposals in the field of direct taxation with which I need not bother the House now, but which can be studied when the Bill is published.

Customs and excise

There are also one or two minor matters relating to Customs and Excise with which I propose to deal. The first concerns cider and perry. These drinks have for many years been excluded from the scheme of duties on alcoholic drinks, and I do not propose to introduce a duty on cider or perry as such.

However, there has recently been a rapid growth in the production of certain special types of cider and perry, of an alcoholic strength much above that of the ordinary product, and comparable in that and other respects with dutiable British wines. To protect the Revenue and to remove an unfair competitive advantage, I propose to extend the British wine duty to include cider and perry of a strength of 15 degree of proof spirit or more. I am advised that in general, cider and perry made by the ordinary processes do not exceed this strength.

To avoid any possible hardship, particularly to farm-house producers, I propose to provide for the exclusion of cider and perry from the duty even if this limit is exceeded, provided it is established that they have been made wholly by simple fermentation of natural apple or pear juice. This distinguishes those traditional beverages from more sophisticated products, which are made from a wide variety of fruit and vegetables. This change will operate as from tomorrow. It is estimated that the Exchequer will benefit to the extent of about £400,000 in a full year and £350,000 this year.

I propose to close a loophole in the law of a very different kind. I am informed that an increasing number of people have been able to acquire motor-cars of the shooting-brake type in such a way as to avoid, in whole or in part, the purchase tax to which these vehicles are liable. I am including a clause in the Finance Bill to stop this form of evasion.

A stable currency

I now turn to the means of preserving and strengthening the prospective Budget surplus. We certainly cannot afford to take any risks. I am intending to place very considerable reliance upon the success of the new savings campaign with the whole body of the public. I believe voluntary savings may bring up something of an order of magnitude far beyond anything yet achieved.

I have explained the Government's purpose to make a saving of expenditure of £100 million this year; and I would say frankly that, if I had not been fortified by the willingness of my colleagues to co-operate in this task, I would have felt it my duty to propose very heavy increases in taxation. But public saving, that is compulsory saving, must in present circumstances, much as I deplore it, still play an important role. I have to be, this year at any rate, another Mrs Pardiggle after all. The difficulty is to measure the need, and to find the means which do the least injury to the morale of all our people.

That our economy is basically sound and in many ways stronger than for many years, we all know. We have escaped from the siege economy of the war and the years immediately after. It may be that in the first thrill of freedom we have gone a little too far in the other direction. That is not to be wondered at; fresh air is rather intoxicating.

But we must be careful. The whole world is watching us today. It will

judge us largely by the degree of self-control and self-discipline of which we can prove ourselves capable. The prize of success is great; but so is the penalty of failure. For those we are asking to save, we must provide a stable pound. For the whole sterling area and all that this implies, politically as well as economically, we must ensure that our balance of payments shall improve and our reserves reasonably well built up. The period of strain comes in the second part of the year. We must do everything we can now to prepare ourselves to take that strain.

The savings package which I have announced is estimated to produce a tax loss of £20 million in the year 1956-57. If the result is, as I hope, to stimulate savings on a very large scale, this tax loss is far more than offset from the point of view of inflation. It will pay for itself many times over. Nevertheless, I must be scrupulous. Even in so good a cause I cannot allow the surplus to be reduced by this £20 million. Moreover, I want not merely to maintain the surplus but to increase it. I want to send a message which will be understood, that we are determined to protect the £, determined to overcome our difficulties. No one should doubt, here or overseas, that there will be made that extra effort required to achieve success.

Tobacco and cigarettes

We have £445 million in hand. What should the reinforcement be? I have thought a great deal about this — I have also had quite a lot of advice. In the end I have reached the decision that I must look in about equal proportions to indirect and direct taxation for the purpose.

Let me take first indirect taxation. The committee will recall that the tobacco duty was raised sharply in 1947 and again by a smaller amount in 1948. Since then, the duty having remained unchanged, the prices of cigarettes and other tobacco have risen relatively little. The duty is a good deal less burdensome than it was eight or nine years ago.

While I am fully aware of the contribution already being made to the Treasury by smokers — the duty yielded £668 million last year — I am sure that part of the additional revenue which I need at the present time can best be obtained from this source. I accordingly propose to raise the duties on leaf tobacco by 3*s* a lb. and to make corresponding adjustments in the rates chargeable on imports of cigars, cigarettes and other manufactured tobacco. The effect will be, for example, an additional 2*d* on a packet of twenty cigarettes. It is estimated that this increase in duty will bring in £28 million in a full year and £27 million in the present financial year. The new rates of duty will come into effect from tomorrow.

I have naturally had to consider the arrangements under which old-age pensioners are given partial relief from the tobacco duty. This scheme had its origin and justification in the large increase in duty in 1947, which raised the price of tobacco out of line with the post-war increases for other goods. In present circumstances I do not propose to extend it to cover the relatively modest increase now proposed.

Profits tax

Now I come to direct taxation. After much consideration I conclude that it would not be conducive either to increased incentives or to the successful operation of the savings campaign to place a further burden upon the income tax payer.

I have therefore decided to secure my purpose in the field of profits tax. I propose to increase the rate of tax on distributed profits by 2½ per cent and that on undistributed profits by ½ per cent. The effect will be to increase the rates to 30 per cent and 3 per cent respectively. The increases will take effect as from April 1st and there will be the usual provisions for dealing with accounts which overlap that date. The yield next year will be £30 million.

It is true that in 1956-57 these increases will not actually reach the Exchequer. They will not therefore directly swell the surplus. Nevertheless, the deflationary effect will not be deferred. The tax to be paid next year will have to be taken into account by boards of directors in formulating dividend policy and expenditure programmes during this year. It will be saved.

Family allowance change

I have one further proposal to make. I am conscious of the burden which is borne in these expensive days by the parents of the large family, and I have looked round for some small concession to help them. It must be something the benefit of which is widely spread, even more widely than the income tax field. I have found it in family allowances.

A Family Allowances Bill will, we hope, be passed into law this session. Its purpose is to raise the age to which the allowance will continue if children remain at school or apprenticed. The Government propose to ask Parliament to add to this an increase in the family allowance scale for the third and subsequent children at the rate of 2*s* a week.

The cost in a full year will be £10 million. If, as we hope, this change can operate from October 1st, the cost will be £5 million for this year. This will be an addition to the £2½ million a year which is required to raise the age limit for which we have already made provision in the estimates.

The balance-sheet

Let us see how the balance-sheet now stands: The savings package will cost £20 million. The family allowances, £5 million — £25 million in all. Against this, tobacco will bring in £27 million, the end of the bread subsidy £12 million, and miscellaneous tax changes £1 million — £40 million in all. As a result, £15 million will be added to the estimated surplus above the line, making it £460 million in all. A further £30 million of profits will be earmarked in this year, and although the money will not accrue to this year's surplus it will help to buttress it and support it. The reduction of Government expenditure will bring further reinforcement. With all these measures together I claim that our main objective will have been secured.

Naturally I regret that I cannot propose all the various alleviations and mitigations, in the realm of both indirect or direct taxation, which have been pressed upon me. For the time being, these must wait. This is a savings Budget. The Budget surplus, the Government saving in expenditure, and private savings will together make a foundation upon which we can take up without danger the task of increasing investment for the future. The rate of our progress during recent years makes it necessary to slacken the pace a little. But the great forward march goes on.

THE BUDGET RESOLUTIONS

The following are among the resolutions passed by the Ways and Means Committee as a result of the Budget proposals of the Chancellor of the Exchequer:

INCOME TAX

Income Tax (Charge and Rates for 1956-57)

That income tax for the year 1956-57 shall be charged at the standard rate of eight shillings and sixpence in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess as Parliament may hereafter determine.

And it is hereby declared that it is expedient in the public interest that

this Resolution should have statutory effect under the provisions of the Provisional Collection of Taxes Act, 1913.

Relief from Income Tax on Savings Bank Interest

That—

(*a*) for the purposes of the Income Tax Acts other than surtax interest on deposits with the Post Office Savings Bank or ordinary deposits with a Trustee Savings Bank which forms part of an individual's total income shall be disregarded up to fifteen pounds; and

(*b*) for the purposes of the foregoing paragraph the income of a married woman living with her husband shall not be deemed to be his income;

and it is expedient for the purposes of any Act of the present Session relating to Finance to authorize such incidental charges to surtax as may result from increasing for the purposes of surtax the total income of an individual which for the purposes of income tax chargeable at the standard rate is reduced by the disregard of interest on savings bank deposits.

But this Resolution shall not require any change to be made in the amounts deducted or repaid under Section one hundred and fifty-seven (pay-as-you-earn) of the Income Tax Act, 1952, before the sixth day of July, nineteen hundred and fifty-six.

And it is hereby declared that it is expedient in the public interest that this Resolution should have statutory effect under the provisions of the Provisional Collection of Taxes Act, 1913.

Suspension of Investment Allowances

That investment allowances shall not be made for the year 1955-56 or later years of assessment in respect of expenditure incurred after the seventeenth day of February, nineteen hundred and fifty-six, except as may be provided by any Act of the present Session relating to Finance.

Income Tax in respect of Offices and Employments

That new provision shall be made for charging income tax on the emoluments of offices and employments.

Income Tax (Persons carrying on Annuity Business)

That, in the case of persons carrying on the business of granting annuities, it is expedient —

(*a*) if any provision is made for relieving from tax in whole or in part the income of part of any such person's annuity fund (being a provision having reference to annuity contracts designed to secure superannuation benefits or other provision for a person's retirement), to authorize such charges to tax as may result in particular cases from treating that part of the fund and the remainder thereof, and the annuity contracts and annuity business to which each is referable, separately for tax purposes, and in particular for the purpose of determining how far any annuities are to be treated as paid out of profits or gains brought into charge to tax; and

(*b*) where any such person is not charged to tax under Case I of Schedule D in respect of the annuity business carried on by him, to provide for charging to tax the profits arising to him from that business or from any part of that business treated separately as aforesaid.

Income Tax (Incidental Charges)

That for the purposes of any Act of the present Session relating to Finance it is expedient to authorize all such incidental charges to income tax (including charges for past years of assessment) as may result —

(*a*) from any provision directing that the question whether a person is

resident in the United Kingdom for income tax purposes shall be decided without regard to a place of abode maintained in the United Kingdom for his use;

(*b*) from any provision treating overseas income as chargeable by reference to the time when it arises or is treated as arising, instead of the time when it is received in the United Kingdom, in certain cases where the person chargeable transfers it to the United Kingdom in the first year in which he is able, or from giving any such provision retrospective effect[1]);

(*c*) from any provision exempting pensions payable to persons resident outside the United Kingdom in respect of service in India, Pakistan, the colonies or certain other territories, or from giving any such provision retrospective effect;

(*d*) from any provision extending the class of liabilities which are charges on residue for the purposes of Part XIX of the Income Tax Act, 1952.

PROFITS TAX

Increase of Profits Tax

That, as respects chargeable accounting periods ending after the end of March, nineteen hundred and fifty-six, the enactments relating to the profits tax shall be amended by:

(*a*) substituting thirty per cent for twenty-seven and a half per cent as the rate of any tax not being a distribution charge; and

(*b*) substituting twenty-seven per cent for twenty-five per cent as the rate of any relief for non-distribution; and

(*c*) adjusting the rates of distribution charges to take account of reliefs for non-distribution given at the new rate;

and in connection therewith provision shall be made for the following matters, that is to say, for dividing, either generally or for particular purposes, chargeable accounting periods falling partly before and partly after the end of that month, for treating wholly or partly as a distribution for a chargeable accounting period ending after the end of that month dividends declared on or after the seventeenth day of April, nineteen hundred and fifty-six, and for adjusting the relief to be given on repayment of loans previously treated as distributions.

Profits Tax (Miscellaneous Provisions)

That it is expedient to authorize all such charges to the profits tax (including charges for past chargeable accounting periods) as may result:

(*a*) from amendments of the law relating to allowances, deductions or charges for income tax purposes;

(*b*) from amendments of the law as to the cases in which, and periods for which, grouping notices under Section twenty-two of the Finance Act, 1937, may be given or are to have effect after the seventeenth day of April, nineteen hundred and fifty-six, or as to the consequences of a body corporate by or as respects which a grouping notice has been given satisfying (after that day) the conditions for exemption from

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[1]) According to a communication in *Taxation* LVII No. 1497, the Chancellor of the Exchequer has announced in the House of Commons that on the report stage of the Finance Bill, he intends to bring forward amendments to clause 9 with the general effect of restoring the existing tax position for persons domiciled overseas who work in the United Kingdom for overseas employers.

Under existing law, such persons were liable to tax only on that part of their salary received in, or remitted to, this country. Clause 9, as originally drafted, would have made them liable to United Kingdom taxation on the whole of their pay for work done here, whether received here or overseas.

Mr. Macmillan has explained that under his proposed amendments, such persons that hitherto have only been liable on a remittance basis, would continue to be liable on that basis and not on full pay. The amendments would apply to persons domiciled in Commonwealth countries overseas, as well as those domiciled in foreign countries. They would not apply to persons resident here who work for employers in the Irish Republic.

tax under subsection (2) or (3) of Section thirty-one of the Finance Act, 1947;

(*c*) from any provision directing that sums applied after the seventeenth day of April, nineteen hundred and fifty-six, in reducing share capital or in repaying loans shall in certain cases be taken into account in whole or in part either as being distributions or as reducing the amounts which, after a trade or business has ceased, are to be treated as distributions of capital.

Source: *Taxation LVII* — 1489.

I

DIE NETTO-UMSATZSTEUERN (VALUE-ADDED TAXES)

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EINLEITUNG

Heute erleben wir eine Blütezeit der Umsatzsteuer. Kaum irgend ein Land der Welt verzichtet auf die Erhebung dieser Steuer[1]). Vor 40. Jahren aber war die Situation ganz anders. Die Steuer war unbekannt; es gab nur Erinnerungen, z.B. Erinnerungen an die spanische Alcabala, die Römische centesima rerum venalium, die Umsatzsteuern in den deutschen Städten (± 1250) und in Frankreich (1292-1482, 1640-1643) und als jüngste Erinnerung die Umsatzsteuer von Bremen (1862-1884) und Amerika (1864-1869)[2]). Die Erinnerungen waren nicht angenehmer Art. Vom Volk wurden die alten Steuern z.B. mit Wörtern bezeichnet wie maletolta (=mauvais impôt), ungelt (= indebitum, ungeschuldet) u.s.w.[3]). Die Bremer Steuer wurde aufgegeben weil sie sehr schädliche Auswirkungen auf die Bremer Kaufmannschaft hatte.

Jedoch die finanzielle Not des zweiten Weltkrieges brachte die Umsatzsteuer wieder zurück. Sie entstand also als Kind der Not. Seitdem hatte die Steuer einen fabelhaften Aufschwung genommen. Das Kind der Not ist jetzt Königin der Steuer[4]) geworden. Diese Königin aber war nicht immer beliebt. Insbesondere fielen die Kritiken auf Ihre Art ungünstig aus. Bedenken in politischer, sozialer und wirtschaftlicher Hinsicht tauchten auf. In Kanada

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[1]) vgl. J. C. L. HUISKAMP — *Systems of sales taxes*, in Bulletin for International Fiscal Documentation, Vol. VI (1952), S. 143.

[2]) vgl. Dr. R. GRABOWER — *Die Geschichte der Umsatzsteuer und ihre gegenwärtige Gestaltung im In- und Ausland*, Berlin, 1925.

[3]) vgl. Dr. H. SCHOLTEN — *Die Steuermentalität der Völker im Spiegel ihrer Sprache*. Finanzwissenschaftliches Forschungsinstitut, Köln 1952, S. 51 (auch S. 39).

[4]) Ein Ausdruck von Prof. Dr. G. SCHMÖLDERS.

z.B. sagte Herr BENNETT (Konservativ): „Nothing will strike a greater blow at the whole capitalistic system than an 8% sales tax" (House of Commons Debates, 1936, S. 2523). Die regressive Wirkung der Steuer enthielt z.B. Grossbritanien die Einführung einer allgemeinen Umsatzsteuer; die Verschiebungen des Wettbewerbs durch die Erhebung einer Umsatzsteuer hatten zur Folge, dass allerwege Versuche gemacht werden die schädliche Kumulativwirkung zu vermeiden. Dagegen, hört man auch Lob. In Amerika z.B. hatte die National Association of Manufacturers eine allgemeine Umsatzsteuer vorgeschlagen mit den Worten: „A uniform excise is a test of fiscal statesmanship"[1]).

In der Sowjet Union hatte die Umsatzsteuer einen Platz bekommen wie nirgendwo sonst und man wendet sie als Mittel zur Lenkung der ganzen Produktion und Konsumption an.

Die Umsatzsteuer ist normal eine brutto Steuer, d.h., der Tatbestand ist der Umsatz oder der Verkaufspreis und keine Abzüge sind zulässig. Insbesondere im Kampf gegen die Wettbewerbsstörungen tauchte der Gedanke an eine netto Steuer auf. Zur Vermeidung der Steuer-kumulation muss in irgend einer Weise der Steuer, die bereits auf den Gütern ruhte, Rechnung getragen werden. Der erste Gedanke in dieser Richtung stammt von Wilhelm von SIEMENS (Veredelte Umsatzsteuer, 1919).

„Jener Umsatzsteuerpflichtige, der einen Gegenstand liefert, hat nur den Netto Umsatz, also den Wert zu versteuern, um den er den Gegenstand teuerer weitergibt als er ihn empfangen hat"[2]).

Auch in Amerika entstanden gleichzeitig ähnliche Gedanken (Thomas S. ADAMS Vorschlag an die National Tax Association im Jahre 1917). Die Gedanken richteten sich nicht auf eine Änderung der Umsatzsteuer — diese bestand in den Vereinigten Staaten im Jahre 1920 überhaupt noch nicht — sondern richteten sich auf eine Änderung einer Netto-Betriebseinkommensteuer, die als recht kompliziert betrachtet wurde. Man könnte vielleicht in der Siemensen Terminologie sagen, es wird eine veredelte Betriebseinkom-

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[1]) *A tax program for economic growth*. New York, 1955, S. 39. Vgl. auch Dr. G. HEDTKAMP — *Steuersystem und Wirtschafswachstum*. Ein Steuerreformvorschlag der amerikanischen Industrie. Finanzwissenschaftliches Forschungsinstitut, Köln. Oktober 1955.

[2]) Broschüre von von SIEMENS, Siemensstad 1921.

mensteuer vorgeschlagen. ADAMS schreibt in seiner Abhandlung folgendes[1]).

„The basis might as well be described as one of „modified gross income". In the case of producers and sellers of „goods, wares and merchandises" further simplicity could be achieved, if desired, by giving the tax the form of a sales tax with a credit or refund for taxes paid by the producer or dealer (as purchaser) on goods bought for resale or for necessary use in the production of goods for sale. It will be noted that the proposed tax on „approximate net income" avoids the strongest arguments against the turnover or sales taxes, namely, that it would be pyramided, create a grossly unfair competition between synthesized and single-process industries . . .".

GRUNDSÄTZLICHER INHALT DES SYSTEMS

Eine Anwendung der Netto-Umsatzsteuer bedeutet, dass in jedem Glied der Produktions- und Handelskette eine Steuer über den Wert den dieses Glied den Waren beifügt erhoben wird. Dies kann geschehen in dem man diesen Wert als Grundlage der Besteuerung nimmt (vgl. von SIEMENS), aber auch indem man eine Rückgabe bewilligt für die Steuer auf den Wert, der in den vorhergehenden Gliedern der Produktions- und Handelskette den Waren hinzugefügt worden ist (vlg. ADAMS).

Das folgende schematische Beispiel, wobei ein einheitlicher Erhebungsprozentsatz von 10% angenommen wird, möge dies klarlegen.

MEHRWERTSYSTEM

1. Glied: Mehrwert	100	—	Umsatzsteuer 10%	=10
2. Glied: Mehrwert	40	—	Umsatzsteuer 10%	= 4
3. Glied: Mehrwert	20	—	Umsatzsteuer 10%	= 2
Ankaufspreis Verbraucher	160	—	Gesamtumsatzsteuer	=16

RÜCKGABESYSTEM

1. Glied: Verkaufswert 100, Ankaufswert 0 - Ust. 10%=10- 0=10
2. Glied: Verkaufswert 140, Ankaufswert 100 - Ust. 10%=14-10= 4
3. Glied: Verkaufswert 160, Ankaufswert 140 - Ust. 10%=16-14= 2

Ankaufspreis Verbraucher 160 — Gesamtumsatzsteuer =16

[1]) *Fundamental problems of federal income taxation.* Quarterly Journal of Economics, 1920, S. 553.

Aus diesem Beispiel erhellt, dass fiskalisch die Netto Umsatzsteuer (wenigstens die integrale Netto-Umsatzsteuer, siehe unten) einer Abgabe mit dem einheitlichen Erhebungsprozentsatz über den Verkaufspreis des Einzelhändlers entspricht (das dritte Glied in unserem Beispiel). Die Netto-Umsatzsteuer bedeutet also eine Steuerbelastung die vom Wert der Waren, im Moment da diese den Verbraucher erreichen, abhängig ist. Die Steuer wird beigetrieben in jenem Glied der Produktions- und Handelskette, die für den Wertzuwachs der Waren Sorge getragen hat.

Der Begriff Mehrwert

Allgemein gesprochen ist dies der Wert, womit der Verkaufspreis den Ankaufspreis derjenigen Bestandteile aus denen der Verkaufpreis aufgebaut worden ist und worüber bereits Umsatzsteuer erhoben worden ist, übersteigt. Der Verkaufspreis besteht aus einer Häufung von Bestandteilen die für unseren Zweck folgendermassen zusammengefasst werden können:

1. Kosten von Rohstoffen und im allgemeinen Kosten von Waren die einen Bestandteil des hergestellten Erzeugnisses bilden, oder Kosten von Waren die ohne dass sie eine Änderung erfahren weitergeliefert werden.
2. Kosten von Hilfsstoffen (Waren, die im Produktionsprozess *ver*braucht werden ohne dass sie Bestandteil des hergestellten Erzeugnisses bilden; z.B. Steinkohlen).
3. Kosten von Investierungsgütern (Maschinen, Installationen).
4. Dienstleistungen (unstoffliche Güter, die nicht unter 6 fallen).
5. Kosten von sonstigen Gütern.
6. Kosten in Form von Gehältern, Lönen, Soziallasten, Zinsen, u. dergl.

Die Umsatzsteuer ist im Grunde eine Steuer auf den Güterstrom. In bezug auf Ankäufe der unter 1 bis 5 genannten Güter soll die Umsatzsteuer daher bereits von den in dem Produktionsstrom verhergehenden Unternehmungen abgetragen sein können.

Bei einer *integralen* Anwendung der Netto Umsatzsteuer sind diese Kosten nicht abermals in dem Umsatzsteuerwert einbegriffen. Den Mehrwert bilden die Kosten ad 6, zuzüglich des Gewinnaufschlags. Bei einer *beschränkten* Anwendung der Netto-Umsatzsteuer

sind die Kosten ad 1 nicht abermals in dem Umsatzsteuerwert einbegriffen. Den Mehrwert bilden die Kosten ad 2, 3, 4, 5, 6, zuzüglich des Gewinnaufschlags. Bei der beschränkten Umsatzsteuer denkt man sich die Sache nur physisch. Physisch besteht keine Steuerkumulation. Finanziell gesprochen ist die Steuerkumulation bei einer beschränkten Netto-Umsatzsteuer nicht ganz aufgehoben, dies geschieht erst bei der integralen Netto-Umsatzsteuer.

Allgemeiner Überblick

Eine *integrale* Netto Umsatzsteuer findet man heutzutage nur in Frankreich[1]). (einschl. *Saarland, Monaco* und den Departements *Guadeloupe, Martinique* und *Reunion*) und in *Michigan* (U.S.A.). Im letzteren Gebiet ist die Steuer in der o.a. Terminologie eher eine veredelte Betriebseinkommensteuer als eine veredelte Umsatzsteuer.

Eine *beschränkte* Netto Umsatzsteuer findet man in mehreren Ländern, z.B. in *Kameroun, Griechenland, Argentinien* und de facto auch in der *Türkei*. In den *Philippinen* wird in der „privilege tax on business"[2]) auch ein Abzug für bereits besteuerte Rohstoffe gewährt.

Ebenso wie in Michigan hat die philippinische Steuer mehr die Merkmale einer Betriebseinkommensteuer als eine Umsatzsteuer. In der *Schweiz* (Grossistensteuer) gibt es auch eine beschränkte Netto-Umsatzsteuer die in erster Instanz dazu bestimmt ist, die Steuerkumulation der Einfuhr und der inländischen Lieferung zu vermeiden. Es ist nämlich so, dass jede Einfuhr besteuert wird auch wenn sie von Steuerpflichtigen in der Warenumsatzsteuer vorgenommen wird.

In der *Sowjet Union* besteht ein besonderes Netto-System. Die Besonderheit wird bedingt durch die Art der Sowjet Umsatzsteuer.

Beschränkte Netto-Umsatzsteuern

Nehmen Wir zunächst als Beispiele die Umsatzsteuern in *Argentinien* und in *Kameroun*.

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[1]) Der Einzelhändler ist in Frankreich im allgemeinen von der Netto-Umsatzsteuer befreit. Die „Sous-commission d'enquête fiscale" hat neuerdings vorgeschlagen die Netto-Umsatzsteuer bis zu den Einzelhändlern, die jetzt Gemeinde-Umsatzsteuer bezahlen, auszudehnen (Vgl. La Vie Française, 24.2.1956).

[2]) National Internal Revenue Code, Commonwealth Act No. 466, as amended up to September 1954, Sect. 178-200. Manila, 1954.

In Argentinien wird auf Grund des Gesetzes Nr. 12143 (Dekret des Staatspräsidenten Nr. 6186 v. 27.3.1952, Boletin Oficial Nr. 17134 v. 22.4.1952) eine Verkaufssteuer erhoben, die auf alle innerhalb des Staatsgebiets Argentiniens getätigten Verkäufe von Waren, Boden- und Gewerbeerzeugnissen Anwendung findet in der Form, dass auf einer einzigen der Etappen, die eine jede Ware bei ihrem Umsatz durchläuft die Besteuerung zu erfolgen hat. Also die Steuer soll nicht kumulativ sein. Zur Errichtung der Steuer haften die Erzeuger und Hersteller oder Einführer der Güter. Mit anderen Worten die Personen die die Güter zum ersten Mal in Argentinien liefern. Um den Betrag der Steuer zu bestimmen ist eine Abrechnung unter Zugrundelegung des Gesamtbetrages aus den Verkäufen unter Vornahme des Abzugs von dem Betrag für Käufe von Waren, die der Verkaufsteuer unterliegen um bei der Herstellung oder industriellen Verarbeitung von Waren für den Verkauf verarbeitet oder umgestaltet, ergänzt oder verwendet zu werden, auf zu stellen. Die Abzüge betreffen zufolge der ausdrücklichen Bestimmung des Paragraphen 8 des Verkaufssteuergesetzes nur die für die industrielle Verarbeitung von Waren, wenn sie ihrer Bestimmung nach einen grundlegenden oder wesentlichen Bestandteil des zu verkaufenden Erzeugnisses bilden.

In Argentinien geht man mit dem Abzug über das physische Kriterium nicht hinaus. Anders ist die Situation in *Kameroun*. Gemäss Paragraphen 501 des „Code général des Impôts directs" unterliegen der Umsatzsteuer „les personnes physiques ou morales, qui, habituellement ou à titre occasionnel, achètent pour revendre ou accomplissent des opérations relevant d'une activité autre que salariée ou agricole". Kapitalgesellschaften unterliegen immer der Steuer. Die Grundlage der Abgabe in Kameroun bildet die Differenz zwischen dem Vierteljahresumsatz und den Vierteljahresankäufen der Steuerpflichtigen. Gemäss Paragraphen 509 des code versteht man in diesem Zusammenhang unter Ankäufen:

1. Ankäufe von Waren mit dem Zweck des Wiederverkaufs.
2. Ankäufe von Rohstoffen und Zwischenerzeugnissen (im allgemeinen Waren die dazu bestimmt sind während des Produktionsprozesses verbraucht zu werden und eine Umwandlung erfahren).
3. Ankäufe von Hilfsstoffen.
4. „Ankäufe" von der Steuer unterliegenden Dienstleistungen (die

freien Berufe sind von der Steuerpflicht ausgeschlossen, da ihre Aktivitäten nicht den im Paragraphen 501 gestellten Anforderungen genügen).

Das physische Kriterium wird überschritten. Neben dem Abzug für Fertigwaren und Rohstoffe (ad 1 und 2) wird also ein Abzug gewährt für Hilfsstoffe und Dienstleistungen, Güter die nur einen finanziellen Bestandteil der verkauften Produkte bilden. Die Netto Umsatzsteuer in Kameroun bildet einen Übergang von beschränkter Netto-Umsatzsteuer zur integralen Netto-Umsatzsteuer.

Während sowohl in Argentinien als in Kameroun (ebenso wie übrigens in Griechenland wo Abzug gemäss dem physischen Kriterium gewährt wird) das Mehrwertsystem(vgl. S. 195) den Ausganspunkt bildet, geht die *Schweiz* von dem Rückgabesystem aus.

Der Grossist oder Hersteller kann für Waren, die er für Wiederverkauf oder als Werkstoff für die gewerbsmässige Herstellung von Waren oder Bauwerke verwendet hat, von der geschuldeten *Steuer*, die *Steuer* auf die Einfuhr von Waren, die von ihm oder von seinem nicht als „Grossist" registrierten Warenabnehmer entrichtet worden ist, in Abzug bringen. Im Inlandsverkehr sind die Lieferungen von Waren für Wiederverkauf und von Werkstoffen von der Steuer befreit. „Dabei gelten als Werkstoffe ausser den Rohstoffen und Zwischenerzeugnissen, die in die hergestellten Waren oder Bauwerke übergehen oder bei der Herstellung abfallen auch diejenigen Stoffe, welche für die Energieerzeugung oder für ähnliche Zwecke bei der Herstellung aufgebraucht werden oder dabei abfallen" (Art. 18, Warenumsatzsteuergesetz). Also gelten auch Hilfsstoffe als Werkstoffe, aber nicht Investierungsgüter und andere Güter die ein finanzieller Bestandteil des Produktes werden.

Wir sehen in der Schweiz die Kombination von Netto-System mit Brutto-Befreiungssystem, welch letzteres System u.a. in *Norwegen* für Rohstoffe und in *Finland* für Roh- und Hilfsstoffe besteht. Auch in der 1940 aufgehobenen *niederländischen* Produktionssteuer 1933 fand man eine Kombination der beiden Systemen; wobei den Steuerpflichtigen die Wahl gelassen wurde eine Bewilligung zu beantragen Roh- und Hilfsstoffe befreit einzukaufen oder später, beim Verkauf der Produkte, Steuerrückgabe zu beanspruchen.

INTEGRALE NETTO-UMSATZSTEUERN

In *Frankreich* wurde im Jahre 1952 von der Regierung PINAY der „Assemblée Nationale" ein Gesetzentwurf eine Steuerreform betreffend angeboten (Nr. 4579, projet de loi portant réforme fiscale). Vorgeschlagen wurde die„ Taxe à la production" und die „taxe sur les transactions"[1]) aufzuheben und eine „Taxe sur la valeur ajoutée "einzuführen. Die „taxe locale additionnelle aux taxes sur le chiffre d'affaires" sollte ersetzt werden durch ein selbständige Gemeindeumsatzsteuer. Der Zweck der Reform war — so wird es in dem Entwurf hervorgehoben — eine Steuer zu finden, die „l'égalité de taxation entre tous les produits de même nature, quels que soient les circuits qu'ils aient suivis et quelles qu'aient été leurs conditions de fabrication", zusicheren sollte.

Im Jahre 1936 war die „taxe à la production" entstanden. Sie wurde bei Produzenten erhoben. Von der Steuer waren die Lieferungen von Rohstoffen, Hilfsstoffen und seit 1939 auch von kurzlebigen Wirtschaftsgütern (produits de consommation rapide) befreit (Brutto Befreiungssystem). 1948 wurde das System der „paiements fractionnés" eingeführt, d.h. Rohstoffe, Hilfsstoffe und kurzlebige Wirtschaftsgüter werden normal besteuert, aber die bezahlte Steuer konnte auf die Steuer von Fertigwaren in Abzug gebracht werden (für kurzlebige Wirtschaftsgüter beschränkte sich der Abzug auf 50%). Also eine beschränkte Netto-Umsatzsteuer mit Ausdehnung bis zu den Hilfsstoffen und kurzlebigen Wirtschafsgütern. Durch die „taxe sur la valeur ajoutée" sollte nun die „déduction physique" völlig ausgedehnt werden bis zur „déduction financielle"[2]).

Im Jahre 1939 war die „taxe sur lés transactions" entstanden. Sie war eine kumulative Allphasensteuer. Der Entwurf beabsichtigte wie gesagt — auch eine Ersetzung dieser Steuer durch die „taxe sur la valeur ajoutée". Die Steuerpflicht der „taxe sur la valeur ajoutée" erweiterte sich nun im Verhältnis zu der „taxe à la production" bis zur Grossistenstufe und bis zum Detailhändler mit mehr als 4 Geschäftseinrichtungen Die Grossisten aber hatten die Wahl Besteuerung nach der neuen Gemeindeumsatzsteuer, der der Einzelhändler normalerweise unterliegt, zu verlangen.

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[1]) siehe: Bulletin Vol. VI (1952), S. 221.
[2]) Vgl. M. LAURE — *La taxe sur la valeur ajouté*, Paris 1952 (besprochen in Bulletin Vol. VII (1953), S. 352).

Nachdem durch einen Beschluss vom 30.9.1953 Abzug gestattet war bis zu einem Betrag von 50% der (Produktions) Steuer auf die Erwerbung von Investierungsgütern trat durch ein Gesetz vom 10.4.1954 die „taxe sur la valeur ajoutée" in Kraft. Dabei galt die Periode bis zum 1.7.1955 als Übergangszeit. Durch einen Beschluss vom 30.4.1955 trat die Steuer integral vom 1.7.1955 in Kraft und wurden die Transaktionssteuer und die (alte) Gemeindeumsatzsteuer aufgehoben.

(*Fortsetzung folgt.*)

II

SURVEY OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

AUSTRIA *Period from May 1st. until June 30th,* 1956

General

Verordnung des Bundesministeriums für Finanzen vom 4. Mai 1956 über die Bewertung bebauter Grundstücke, Bundesgesetzblatt (B.G.Bl.) 1956, p. 919.

BELGIUM *Period from May 1st. until June 30th,* 1956

Taxes assimilées au timbre

Arrêté royale du 22 mai 1956 modifiant le code et le règlement général sur les taxes assimilées au timbre, Moniteur Belge 1956, Nr. 147, p. 3702.

Arrêté royal du 25 mai 1956 modifiant l'arrêté royal du 11 mars 1953, majorant le taux de la taxe de transmission à l'importation, Moniteur Belge 1956, Nr. 152, p. 3814.

Arrêté royal du 9 juin 1956 modifiant l'arrêté royal du 11 mars 1953 majorant le taux de la taxe de transmission à l'importation, Moniteur Belge 14 juin 1956, p. 4084.

Droits d'accise

Décision ministérielle du 30 avril 1956. Modifications à l'instruction ministérielle du 20 avril 1933, relative au régime fiscal des eaux minérales et limonades gazeuses ou mousseuses, Moniteur Belge 7-8 mai 1956, p. 3275.

Arrêté royal du 24 mai 1956 relatif au régime fiscal du tabac, Moniteur Belge 1956, Nr. 148, p. 3731.

Droits d'entrée

Arrêté royal du 27 mai 1956 relatif au tarif des droits d'entrée, Moniteur Belge 1956, Nr. 149-150, p. 3765.

FRANCE *Period from May 1st. until June 30th,* 1956.

Impôts directs

Application du décret 55-594 du 20 mai 1955 relatif à divers allégements fiscaux, Journal Officiel 1956, p. 5724.

Conventions

Décret No. 56-466 du 30 avril 1956 exonérant des impôts sur les revenus, par réciprocité les entreprises belges de transport aérien, J.O. 1956, p. 4375.

Versement forfaitaire

Décret No. 56-471 du 5 mai 1956 fixant les conditions d'application de l'article 231ter du C.G.I. relatif au versement forfaitaire applicable à certaines recettes des professions non commerciales, J.O. 1956, p. 4439.

Contributions indirectes

Décret No. 56-454 du 2 mai 1956 et décret No. 56-512 du 14 mai 1956, fixant les modalités d'application de la loi No. 56-333 du 27 mars 1956

relative à la suspension des taxes indirectes sur certains produits de consommation courante, J.O. 1956, p. 4274 et p. 5000.

Taxe de compensation sur les locaux inoccupés ou insuffisamment occupés.

Arrêté du 2 mai 1956 fixant les frais d'assiette et de perception de la taxe de compensation sur les locaux inoccupés ou insuffisamment occupés et le montant de la cotisation affectée au fonds de dévelopment économique et social, J.O. 1956, p. 4563.

Taxe spéciale temporaire de compensation

Rectificatif d'arrêté du 5 avril 1956. (voir Bulletin, p. 153), J.O. 1956, p. 4835.

Décret No. 56-501 du 23 mai 1956 portant réduction du taux de la taxe spéciale temporaire de compensation applicable à certains produits, J.O. 1956, p. 4777.

Arrêté du 23 mai relatif à la taxe spéciale temporaire de compensation, J.O. 1956, p. 4782.

Droits de douane

Décret No. 56-432 du 2 mai 1956 portant réduction provisoire du droit de douane d'importation applicable à certains tapis, J.O. 1956, p. 4188.
Décret No. 56-477 du 14 mai 1956 modifiant le décret No. 56-376 du 12 avril 1956 portant suspension provisoire des droits de douane d'importation applicables aux animaux de l'espèce bovine et aux viandes de ces animaux dans la limite de contingents tarifaires, J.O. 1956, p. 4501.

Décret No. 56-478 du 14 mai 1956 portant suspension provisoire des droits de douane d'importation applicables aux pommes de terre de primeur, J.O. 1956, p. 4501.

Décret No. 56-509 du 24 mai 1956 relatif à la détermination de la valeur en douane des marchandises importées, J.O. 1956, p. 4940.

Décret No. 56-579 du 14 juin 1956 portant suspension jusqu'au 31 décembre 1956 du droit de douane applicable à certaines pellicules sensibilisées, non impressionnées, perforées, pour images monochromes, positives, J.O. 1956, p. 5437.

Décret No. 56-629 du 28 juin modifiant les décrets No. 56-376 du 12 avril et No. 56-477 du 14 mai 1956 portant suspension provisoire des droits de douane d'importation applicables aux animaux de l'espèce bovine et aux viandes de ces animaux dans la limite de contingents tarifaires. J.O. 1956, p. 5982.

Matières diverses.

Arrêté du 29 mai 1956 fixant l'assiette, le taux et le mode de recouvrement des taxes destinées à assurer le financement du comité central des pêches maritimes et du service social des pêches maritimes, J.O. 1956, p. 5472 et 5473.

Arrêté du 23 juin 1956 concernant le remboursement des charges sociales et fiscales aux entreprises exportatrices, J.O. 1956, p. 5821.

GERMANY *Period from May 1st. until June 30th,* 1956

General

Gesetz zur Anderung von Vorschriften des Dritten Teiles der Reichsabgabenordnung, vom 11. Mai 1956, B.G.Bl., Teil I, 1956, Nr. 22, p. 418.

Equalization of burden law

Drittes Gesetz zur Änderung des Dritten Überleitungsgesetzes, vom 11. Mai 1956, B.G.Bl., Teil I, 1956, Nr 22, p. 420. Siebentes Gesetz zur

Änderung des Lastenausgleichsgesetzes, vom 11. Mai 1956, B.G.Bl., Teil I, 1956, Nr. 22, p. 421.

Customs

Gesetz zur Änderung des Zollgesetzes (Zweites Änderungsgesetz zum Zollgesetz), vom 3. Mai 1956, B.G.Bl., Teil I, 1956, Nr. 20, p. 375.

Neunte Verordnung über Zolltarifänderungen zur Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl, vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 603. Zweiundfünfzigste Verordnung über Zollsatzänderungen (Edel-Zellstoff, Modelhüte usw.), vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 604.

Fünfundfünfzigste Verordnung über Zollsatzänderungen (Chlor, Asbestfäden usw.), vom 29. Juni 1946, B.G.Bl., Teil I, 1956, Nr. 32, p. 607.

Sechsunfünfzigste Verordnung über Zollsatzänderungen (Zweite Fristverlängerung der Individuellen Zollsenkung), vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 609.

Siebenundfünfzigste Verordnung über Zollsatzänderungen (Fristverlängerung der Konjunkturpolitischen Zollsenkung — 1. und 2. Teil), vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 610.

Achtundfünfzigste Verordnung über Zollsatzänderungen (Konjunkturpolitische Zollsenkung — 3. Teil), vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 611.

Neunundfünfzigste Verordnung über Zollsatzänderungen (Schweröle zum unmittelbaren Verheizen), vom 29. Juni 1956, B.G.Bl., Teil I, 1956, Nr. 32, p. 630.

NETHERLANDS *Period from May 1st. until June 30th*, 1956.

Direct taxes

Law of May 31st., 1956 providing for the abolishment of the equalization levy (vereveningsheffing) and amending the wages and income tax, Staatsblad van het Koninkrijk der Nederlanden, Nr. 311, 31 mei 1956.

Stamp duty

Amendment to the regulations concerning conversion and delay in the field of stamp duty, May 14th, 1956/No. C6/2919/Dept. Indirect Taxes, Nederlandse Staatscourant, May 16th, 1956, Nr. 94, p. 4.

Amendment to the general regulations, stamp duty Act 1917, June 6th, 1956/No. C6/3063/Dept. Indirect Taxes, Nederlandse Staatscourant, June 11th, 1956, Nr. 111, p. 3.

Amendment to the regulations concerning stamp duty on securities, June 6th, 1956/No. C6/3063/Dept. Indirect Taxes, Nederlandse Staatscourant, June 11th, 1956, Nr. 111, p. 4.

Excise taxes

Law of May 23rd., 1956, providing for special measures in respect of excise tax and turnover tax on cigars, Stbl., Nr. 256, May 25th, 1956.

Customs

Decree of May 17th, 1956, providing for temporary modifications in the rate of import duties, Stbl., Nr. 252, May 25th. 1956.

Miscellaneous

Law of May 17th, 1956, providing for a new organization of the tax jurisdiction (Wet administratieve rechtspraak belastingzaken), Stbl., Nr. 323, June 19th, 1956.

MISCELLANEOUS — FAITS DIVERS

Argentina

Modification in the rates of taxation

On 23rd February 1956 the Finance Minister announced a number of modifications in the rates of taxation. These changes are designed to decrease the burden of taxation on lower incomes by modifying the direct tax on income and by lowering the sales tax on certain essential goods, to encourage farming and house-building, and to increase the total amount collected by raising taxes in general. Among the increases are an advance, from 30 to 35 per cent, in the tax on foreign companies' profits and remittances to shareholders resident abroad, and the imposition of an emergency non-recurring tax on profits, incomes and excess profits earned in 1955, amounting to 20 per cent of the tax already assessed.

Source: *Bank of London & South America Ltd., Fortnightly Review, vol.* 21, *nr.* 508 *p.* 146

Brazil

New Brazilian Tariff Submitted to Congress; Consumption Tax Up.

The text of a bill to revise the Brazilian customs tariff was submitted to the Congress on December 28, and pending enactment of the new tariff, which will provide generally higher rates, consumption taxes were increased as a fiscal measure on a large number of products for the year 1956.

A complete revision of the tariff has been under study since 1951 and the proposed tariff has the approval of all interested Government agencies, including the National Economic Council.

The bill proposes that the tariff utilize the Nomenclature pour la Classification des Marchandises dans les Tarifs, as annexed to the Convention de Marchandises dans les Tarifs Douaniers, signed in Brussels in 1950, as well as later studies made by the Conseil de Coopération Douanière.

The proposed tariff, the Finance Minister reported in his message accompanying the bill, employs a decimal classification system covering 21 sections, 99 chapters, and about 8,000 commodity items. All former tariff classifications of little significance in modern trade are discarded and many items not listed in the former tariff are added.

The tariff rates are to be assessed on an ad valorem basis, and the Ministry of Finance indicated that the rate to apply to an item will be charged on the price at which the item normally is offered for sale in the exporting country's markets. The Minister pointed out that the regulations which will govern operation of the new tariff are detailed and definite and designed to prevent fraud in Value declarations.

The duty scales recommended range from duty-free to 10 percent for items whose free entry into the country is considered desirable, as well as for items which should carry a reduced assessment in view of their service to the country's development; 11 percent to 60 percent for items competing with domestic products not requiring full protection but unable to compete freely with similar imported articles; and 61 percent to 150 percent for the remaining items — a protectionist scale covering items competitive

with domestic products which should be highly protected, and designed to discourage imports not considered essential.

Provision is made for elimination of certain supplementary duties and taxes now levied on all our specified imports.

All exceptions to the new tariff, including rates agreed upon under international agreements signed by Brazil, are to lapse within 1 year of the new law's publication date.

Price and other data to appear in a new declaration to be required for each import transaction are subject to investigation until the merchandise is cleared by Congress.

The form of the Brazilian consular invoice is revised and a copy appears in the draft bill. Also included in the bill is a proposal for creation of a Customs Policy Council designed as a permanent agency to put into force the new Customs program.

Tax Raises Specified

Consumption taxes are levied on specified manufactured products of both domestic and foreign origin, although taxes on imported products generally are higher than on goods produced in Brazil.

The tax on imported products is assessed by the Brazilian Customs and is paid at the same time as are import duties. Taxes on imported goods specified ad valorem rates are levied on import prices, that is, the c.i.f. value plus customs duties and other charges.

The increases specified under law No. 2,653 of November 24, 1955 published in the Diario Oficial of November 28, are summarized as follows:

* 20-percent increase on mechanical and electrical apparatus and metal products; products made from specified materials of vegetable or animal origin; pottery and glass; paints, enamels, varnishes, and specified chemical products; footwear; matches and lighters; and textile products. Cotton and woollen cloth also are subject to additional increases ranging up to 50 percent, varying according to the price per meter of the fabric.
* 30-percent increase on arms, munitions, and fireworks; jewelry and time pieces; paper and paper products; furniture; electric light bulbs; toilet preparations, and essential oils.
* 40-percent increase on playing cards.
* 50-percent increase on passenger automobiles.
* 25-percent increase on mineral waters, soft drinks, and solid products for the manufacture of soft drinks;

30-percent increase on sirups for soft drinks; 35-percent increase on beer; and 50-percent increase on other beverages.—

Source: *Foreign Commerce Weekly, Vol.* 55, *No.* 5

British Honduras

Flat rate of tax on Companies.

By the Income Tax (Amendment) Ordinance, 1955 (2nd. Dec.) the tax upon the chargeable income of a Company has been increased to 40% (forty) of the amount of the chargeable income.

Source: *Income Tax (Amendment) Ordinance*, 1955, *No.* 12

Cambodja

Tax revision

The profit tax has been increased from 18% to 22%. The general tax in respect to salaries is no longer levied. However, the tax on wages has been increased. The tax burden on rubber plantations has also been increased.

Source: *Foreign Commerce Weekly, March 26th*, 1956, *p.* 9

Cuba

New Tax on Capital Profits.

Cuba has enacted a new capital gains tax law for the purpose of financing recently enacted supplementary appropriations. Rates of the new tax vary from one-half to about two-thirds of rates applicable under present income and profits tax schedules.

Capital gains are defined by the new law, No. 6 of October 6, as net gains realized on the sale or exchange of real estate, securities, or trademarks and patents which have been held for at least a year.

One schedule of rates, ranging from 8 percent on gains of under 25,000 pesos to 18 percent on gains of over 1 million pesos, is applicable to corporations and businessmen subject to the profits tax.

The other rate schedule, ranging from one-half percent on gains of under 2,400 pesos to 15 percent on gains of over 55,000 pesos, is applicable to individual income taxpayers. Capital gains realized in less than 1 year will be subject to the full income or profits tax, as the case may be.

Taxpayers are granted until the end of the year to regularize their pending tax liabilities at the new capital gains rates. All entities which have made stock dividends since 1951 are required to report details to the Ministry of Finance, as stock dividends are subject to the capital gains tax.

Some entities which have been liable for the stamp tax but from which it has not been uniformly collected are granted a grace period until the end of the year to pay taxes due for 1954 and 1955 and thus to acquire exemption from pre-1954 liability.

Capital gains in theory have been subject since 1942 to a profits or income tax, but in practice they usually have been realized without payment of any tax.

Source: *Foreign Commerce Weekly, Vol. 54, No. 25, p. 9*

Dominican Republic

Dominicans raise general surcharge; Gas, Oil taxes.

The Dominican general surcharge on the amount of taxes, established at 3 percent by a law of February 11, 1955, has been raised to 5 percent.

This raise will apply to the same taxes as did the 3-percent surcharge, that is, customs duties and other import taxes and most internal taxes.

The tax on gasoline has been raised by 3 cents a gallon, and the tax on kerosene, diesel oil and fuel by 1 cent a gallon.

These changes in taxes and surcharges were put into effect by a law of October 7, 1955.

Source: *Foreign Commerce Weekly, vol. 55, No. 7, p.11*

Federation of Rhodesia and Nyassaland

Income Tax

A maximum tax rate of 10 s in the £, irrespective of income, is recommended by the Commission of Inquiry on Income Tax in the Federation of Rhodesia and Nyassaland.

The Commissioners report: 'The psychological effect of always being allowed — however large the income above £7,000 — to keep at least one-half of the excess, is likely to be great.'

Three of the Commission's seven members are in favour of abolishing supertax. Their view is that its abolition would stimulate the inflow of capital and of immigrants with the skill, means and enterprise to found new industries and businesses.

The Commission as a whole recommends a lower maximum rate of supertax, and the exemption of married persons with incomes of less than £4,000 per annum.

Source: *Taxation, March 10th, 1956 vol. LVI. No.. 1483*

France

Taxes sur chiffre d'affaires.
Opérations Imposables. — Cession de brevets ou concession de licenses par des étrangers. Cédants américains et suisess. Exonération. Condition.
(*Instr. no.* 41 *B*, 5 *mars* 1956)

L'Administration avait déjà précisé qu'elle rechercherait, en liaison avec les autorités compétentes des divers pays intéressés, dans quelles conditions les ressortissants de ces pays seraient admis à établir leur qualité d'inventeur.

Dans l'instruction visée en référence, elle notifie les modalités du nouvel accord intervenu sur ce point entre les services du Trésor français et le département du Trésor des Etats-Unis d'Amérique.

1 — *Champ d'Application.*

Les opérations pour lesquelles la qualité d'inventeur pourra éventuellement être reconnue au cédant ou concédant, en vertu dudit accord, sont les cessions ou concessions de droit d'exploitation de brevets, droits d'auteur, ainsi que les inventions suivantes: marques de fabrique, procédés ou formules de fabrication y compris l'ensemble des dispositions nécessaires à l'utilisation pratique de l'invention à son exploitation et à l'assistance technique indispensable à son exploitation.

Demeurent dès lors exclues les opérations accessoires (louage de main-oeuvre, publicité etc.) effectuées sur le territoire français.

2 — *Qualité d' Inventeur.*

La qualité d'inventeur sera appréciée selon les critères retenus dans le régime intérieur des taxes sur le chiffre d'affaires.

3 — *Mode de Preuve.*

La constatation de la qualité d'inventeur, emportant exonération des taxes sur le chiffre d'affaires, résultera de la production, soit par le représentant habilité de l'intéressé, soit par le redevable français bénéficiaire de la cession ou concession, d'une déclaration établie sur formule spéciale conforme au modèle donné par l'Administration.

Cette déclaration devra, bien entendu, être appuyée de toutes les pièces justificatives utiles (brevets, contrats, extraits de contrats, etc.).

Lorsque les cessions ou concessions portent sur les droits qui n'ont été qu'en partie inventés par le cédant ou le concédant, il appartient aux contractants d'établir, sous leur propre responsabilité, la ventilation entre les redevances exonérées et celles qui demeurent taxables. Il n'est fait exception à cette règle que lorsque l'invention du donneur américain est nettement prépondérante sur les éléments acquis de tiers, auquel cas l'exonération des taxes sur le chiffre d'affaires est étendue à la totalité des redevances perçues.

4 — *Règlement du Passé et des Litiges en Cours.*

Les dispositions de cet accord prennent effet à compter du 1er juillet 1954. Les droits acquittés à tort à ce titre pourront faire l'objet de demandes de restitution.

Pour la période antérieure au 1er juillet 1954, les cessions de droits non rémunérées par une somme forfaitaire demeurent normalement passibles des taxes sur le chiffre d'affaires. L'Administration a toutefois décidé que le paiement des taxes ne serait exigé qu'à compter de la date à laquelle des réclamations écrites ont été adressées aux donneurs américains de licences ou à leurs représentants en France.

Sauf cas de fraude caractérisée, elle a, d'autre part, décidé qu'il sera fait abandon de toute pénalité aux donneurs américains de licenses qui régulariseront leur situation dans le cadre de ces dispositions avant le 16 août 1956.

5 — *Cédants Suisses. Extension du bénéfice du nouvel accord*

En application du paragraphe 3 de l'accord franco-suisse dn 10 février 1955 le bénéfice de l'accord franco-américain, plus libéral que le précédent, a été étendu aux donneurs suisses de licence.

Source: *Bulletin Officiel des Contribution Indirectes*, 1956, *I.*, p. 39

Greece

New Law Eases Taxation for Greek-Flag vessels

Greece, to encourage return to its flag of vessels registered by Greek shipowners in foreign countries, has amended its ship taxation law.

A 5-year tax exemption is permitted if at time of registry in Greece the vessels are less than 2 years old. Cargo ships over 2 years old are tax-exempt for 3 years during periods of haulage on regular lines between Greek and foreign ports. Cargo tanker and refrigeration ships between 2 and 20 years of age are subject to taxation at 50 percent of the normal rate, which ranges between 1.5 and 6 percent on gross earnings.

Ships registered under the Greek flag are not required to pay contribution taxes except to the pension fund.

The transfer tax on the sale of ships in whole or part interest is to be computed on the basis of either pounds sterling or dollars per gross ton of net capacity. If the sale occurs in Greece the tax is payable in the drachma equivalent of the currencies involved at the official parity rate.

The gross tonnage level of rated capacity for cargo boats, tankers, and refrigerator ships is raised from 300 to 500 tons, with the result that additional smaller craft are subject to the tax rate applicable to their tonnage instead of on gross earnings.

Provision is made for the transfer of foreign exchange derived from sales of ships and mortgages and from insurance compensation for loss or damage. Contracts involving mortgages and transfer of ownership in whole or in part are permitted to contain provisions for payment in foreign currency.

The reduction in the normal tax rate on cargo, tanker, and refrigerator ships is increased from 30 percent to 50 percent. For newly registered ships between 2 and 20 years of age the aggregate reduction amounts to 25 percent of gross earnings.

Tax returns must be filed semiannually, in January and July, and they may be submitted by the ship's administrator or by a duly authorized representative of the shipowner. Formerly returns were required to be filed quarterly, accompanied by sworn attestations of the persons filing.

These changes in the law were made through legislative decree No. 3415 which went into effect on October 8, 1955.

Source: *Foreign Commerce Weekly, vol.* 55. *No.* 8, *p.* 6

Guatamala

Hotels

In accordance with the stipulations of decree Nr. 573, Feb. 29th., 1956, construction material, with the aim to modernize existing hotels or to construct new ones may be imported duty free, provided the materials are such as are not obtainable in the domestic market.

International

O.E.E.C. Fiscal Commission

The Fiscal Commission of the O.E.E.C. has held its first meeting on May 23rd. and 24th in Paris under the presidency of Dr. A. J. van den Tempel, acting Director general of the Netherlands' Ministry of Finance.

The Commission has been called upon to study the different problems connected with double taxation. The Council of the O.E.E.C. has referred to the difficulties which represent the levying of taxes by two different countries for one and the same taxable object, that this prevents the development of international transactions and investment, and that it was up to the countries concerned to take steps in order to remove these difficulties.

The Commission has therefore been appointed to study these questions and to make definite proposals to avoid double taxation in the field of direct and indirect taxation as well as to avoid unequal treatment based upon nationality.

On the occasion of the first meeting decisions have been taken as regards the studies to be undertaken.

In October next the Commission will gather again to study the results which have been reached.

Japan

Company tax

On a revision of the tariffs of the company tax these have been reduced and range now from 35 to 40%.

Income tax return

Foreigners in Japan are being tested on their arithmetics. According to the English paper "Taxation", the following passage by way of explanation for the income tax return is being mentioned:

"Take the appraised value of your house, multiply it by the floor space you occupy, divide it by the total floor space, multiply the result by the number of days during 1955 in which you were a resident taxpayer, divide the answer by 365, multiply that by 108, and divide the answer by 100".

Income tax

The income tax has been reduced by means of an increase of the tax free minimum and by an increase of allowances for invalid, sick and aged persons. The rate amounts now to 15% for an income up to and including 30.000 yen.

The maximum rate is 65% (income higher than 5.000.000 yen).

New Tax Law Proposed

The Tax Advisory Council, an advisory agent of the Japanese Cabinet, has proposed to the Minister of Finance that legislation be drafted to ameliorate the impact on foreign nationals of the expiration on December 31, 1955, of the Special Taxation Measures Law, No. 136, 1950.

The Council's report states that continuation of special tax privileges for foreigners is not appropriate as a matter of principle and must be terminated. It recommends, however, that transition to full tax liability should be gradual. Upon acceptance of the Council's proposal by leaders of the Democratic-Liberal Party, legislation is expected to be drafted covering a temporary period of perhaps 2 or 3 years. The new law would increase the Japanese tax liability of most foreigners in 1956 over 1955, but special exclusions on income earned elsewhere and not transmitted to Japan probably will be granted.

Temporary law would ease Tax

The Special Taxation Measures Law provided temporary tax privileges for aliens domiciled but not resident in Japan. Such aliens declared for Japanese tax purposes only that portion of income earned and paid to them

in Japan and that portion earned outside Japan but remitted to them there. Salaries earned in Japan but paid outside were exempt from Japanese taxation.

In addition, to encourage foreign technicians to go to Japan, designated foreign technicians engaged in specified fields of activity were granted a 50-percent deduction up to a maximum of 3,5 million yen, or US$9,722, on the amount of tax liability.

Upon expiration of the Special Taxation Measures Law at the end of 1955 foreign nationals in Japan became subject to the same income tax rates as apply to Japanese nationals.

Japanese tax rates in middle income brackets are higher than those in the United States. For example, a foreign national domiciled in Japan for a year or more having a net taxable income of 3 million yen, or US$8,333, is liable for national and prefectural taxes amounting to US$5,902.

The proposed law is expected to ease the tax burden during a transition period.

Source: *Foreign Commerce Weekly, Vol. 55, No. 6, p. 9*

Mexico

Income Tax Law

Mexico has made a number of important changes in taxation of income from investments. Two major changes are made in tax rates, in addition to changes in the method of computing taxable income.

The changes were made by a decree of December 30, 1955, amending the Income Tax Law of 1954. The amendatory decree was published in the Diario Oficial, December 31, 1955. Implementing amendments to the Income Tax Regulations were published in the Diario Oficial of February 4, 1956.

After January 1, 1956, the effective date of the new amendments, income from commerce and industry (tax schedules I and II) will be subject to proportional and progressive tax rates as high as 39 percent in place of the former top rate of 33 percent. The following new tax brackets are added:

Bracket of net taxable income (in pesos)	Rate of tax (percent)	Computed total tax due on bracket minimum (in pesos)
1.000.000.01-1.250.000	33.00	260.058.00
1.250.000.01-1.500.000	34.50	342.558.00
1.500.000.01-1.750.000	36.00	428.808.00
1.750.000.01-2.000,000	37.50	518.808.00
2.000.000.01 and above	39.00	612.558.00

New EPT Ceiling Set

The increases in schedular rates will be softened for taxpayers having a very high ratio of profits to invested capital, because of a new ceiling which has been placed on the excess profits tax. Formerly, that part of net taxable excess profits amounting to a sum greater than 15 percent of invested capital was subject to excess profits taxation at rates of up to 25 percent. Under one of the new amendments (article 177, as amended), the excess profits tax may not, under any circumstances, exceed 10 percent of the amount of net taxable excess profits income.

The following example shows how the new ceiling will operate, assuming invested capital of 1 million pesos and net taxable excess profits income of 600.000 pesos:

Net taxable excess profits income (pesos)	Tax rate (percent)	A-mount of tax (pesos)
First 150,000	Exempt	—
Next 50,000	5	2,500
Next 100,000	10	10,000
Next 100,000	15	15,000
Next 100,000	20	20,000
Next 100,000	25	25,000

Thus, the computed tax on the net taxable excess profits tax income of 600,000 pesos would be 72,500 pesos, but the ceiling reduces the tax to 60,000 pesos, or 10 percent of the net taxable excess profits income.

Foreign Branch EPT Affected

Another amendment will increase the excess profits tax burden of branches or agencies of foreign business organizations which operate in Mexico. Formerly, such branches or agencies computed invested capital, for purposes of the excess profits tax, as 60 percent of the assets appearing on the books at the beginning of the tax year. This percentage now is lowered to 40 percent under article 172 I.

Also to the detriment of branches or agencies of foreign enterprises is a new provision which denies them certain deductions in computation of the 15-percent "distributable profits" tax. These deductions are: The regular reinvestment reserve (up to 10 percent of distributable profits), additional reinvestment reserves, and the 5 -percent legal reserve required of all companies by the General Law of Mercantile Companies (article 138 VII).

Previously taxpayers could capitalize only the regular reinvestment reserve without payment thereon of the distributable profits tax. Now the 5-percent legal reserve also may be so capitalized, and, in addition, schedule II (industry) and III (agriculture, stockraising, and fishing) taxpayers also may so capitalize additional reserves for reinvestment.

Other Changes made

Other noteworthy changes are the following:

A new paragraph has been added to article 81 of the Income Tax Law which explains the method for computing the tax of schedule II taxpayers who enjoy tax exemptions on part of their income under the Law for the Development of New and Necessary Industries. Under this method, the tax first is to be computed on all of the taxpayer's income, both taxable and exempt. Then the tax rates are to be applied to the amount of exempt incomes. The difference between the results of these two computations is the amount of tax due. Because of the progressive nature of the tax rates, this method of computation will result in a higher percentage of tax on the nonexempt part of the taxpayers' income.

New article 58 provides an option for the taxation of profits derived from the sale of land and buildings which have formed a part of fixed assets for a period of more than 5 years. Because of the position of article 58 it would appear that this option is available only to schedule I taxpayers. The taxpayer may choose to treat the sale as an "incidental transaction" and the profit therefore taxable at a flat rate of 20 percent instead of adding it to other income taxable under schedule I, II or III. Under this option the profits are not subject to excess profits taxation but to the distributable profits tax. If the taxpayer does not take this option the profits will, of

course, be taxable at the regular schedular rates and subject to both excess profits taxation and the distributable profits tax. —

Source: *Foreign Commerce Weekly, vol.* 55 no. 11

Pakistan

Budget

A good reception was given to Pakistan's Budget for 1956-57, which shows a surplus of Rs58 lakhs (about £450,000). No additional taxation is proposed and certain concessions and reliefs are provided for.

The Finance Minister, Mr Anjad Ali, announced a reduction in import duty on drugs and medicines by 2½ per cent for imports from the United Kingdom and by 12½ per cent in the case of other countries.

Excise duty on coarse cloth has been cut by 4 per cent, and sales tax on yarn is reduced from 12 to 6¼ per cent.

Tax relief is given in respect of the education of children of persons in the lower income brackets. This would be allowed at Rs200 a year for each child, to a maximum total of Rs600.

Foreign technicians employed in an undertaking under contract and approved by the Government will be exempt from income tax for their first two years. Provisions are made in the Budget for the taxation of income from exploration and production of petroleum, including natural gas, and for the equal sharing of profits with the Government.

Source: *Taxation, vol. LVI. No.* 1485

Philippine Revenue Situation

The Philippine Tax Advisory Board has recommended to the President a re-enactment of the law providing for higher individual and corporate income tax rates, which expired at the end of 1955. A loss of £24 million (US$12 million) in revenue is expected unless the higher rates are again made applicable. The Board has also recommended that the existing rates of specific taxes on cigars, cigarettes, etc., be made permanent at the next session of the Congress. Although these rates are valid for another two years, it is feared that no action may be taken next year, which is an election year; if the taxes were allowed to lapse, the loss of revenue would amount to £ 84 million. Finally, the Board has recommended an increase in estate, inheritance, and gift tax rates.

Total tax collections in 1955 amounted to £451 million, about £ 40 million above the 1954 collections.

Source: *International Financial News Survey, vol. VIII, No.* 30

W. Germany-France

Deutsch-französische Doppelbesteuerungsverhandlungen.

In der Zeit vom 16. bis 21. Februar 1956 haben in Paris Verhandlungen zwischen den Vertretern der französischen und der deutschen Regierung über den Abschluss eines neuen deutsch-französischen Abkommens zur Vermeidung der Doppelbesteuerung auf dem Gebiet der Ertrag- und Vermögensteuern stattgefunden. Die Verhandlungen, die noch nicht beendet werden konnten, werden voraussichtlich im Sommer 1956 in Bonn weitergeführt werden.

Der Bundesverband der Deutschen Industrie hat in Vorbereitung dieser Verhandlungen in Zusammenarbeit mit der Steuerabteilung des Conseil National du Patronat Français wesentliche Vorarbeiten geleistet und diese den deutschen Regierungsvertretern zur Verfügung gestellt.

Source: *Aktuelle Steuerrundschau,* 1956 *Nr.* 2, *p.* 16

Uruguay

Tax revision

In view of the financial difficulties the Minister has proposed the introduction of income tax. Besides, the question has been brought up to levy a special tax on travellers who leave the country. The introduction of the income tax is being strongly opposed.

III

REVENUS REALISES A L'ETRANGER EN DEVISES ETRANGERES

1. Lorsqu'une entreprise réalise des revenus à l'étranger, différantes problèmes peuvent se présenter en matière fiscale, dont voici quelques-uns:
a. Quel est le cours d'échange qui doit être pris en considération pour l'impostion des revenus étrangers dans le chef de l'entreprise?
b. Comment faut-il évaluer les revenus en question s'il n'existe pas un seul cours d'échange?
c. Existe-t-il des règles spéciales lorsque les revenus provenant de sources étrangères sont bloqués?

2. Le problème devient plus compliqué encore s'il ne s'agit pas seulement de revenus périodiques mais plus généralement d'avoirs libellés en monnaie étrangère dont la valeur en monnaie nationale de l'entreprise possédant ces avoirs subit des changements à cause d'une dévaluation. Il peut en résulter un bénéfice (dévaluation de la monnaie nationale) ou une perte (dévaluation de la monnaie étrangère).

Cette perte ou ce bénéfice seront ils pris en considération pour l'imposition, et dans l'affirmative, de quelle façon?

3. Voilà quelques sujets qui nous semblent être de nature à pouvant intéresser les lecteurs du *Bulletin*. Déjà nous avons consacré quelques pages au problème du blocage (*Bulletin*, Vol. I, p. 374 et suiv.).

4. Dans le présent nummëro nous reproduisons l'essentiel de deux arrêts de la Cour d'appel de Bruxelles qui concernent le premier sujet. D'après la législation fiscale belge le cours d'échange qui doit être pris en considération est celui à la date de clôture du bilan. Les arrêts reproduits ci-après s'occupent des deux autres problèmes susmentionnés.

5. Afin de nous permettre de publier d'autres communications à ce sujet *nous prions nos lecteurs de nous faire parvenir de pareilstextes avec, s'il y a lieu, leurs brefs commentaires*. Nous les publierons dans un numéro prochain du *Bulletin*.

The question of a company receiving money from abroad may lead to many a different problem in the field of taxation.
a) Which is the exchange rate to be applied for taxation purposes?
b) How to appraise these revenues in case of the existence of different foreign exchange rates?
c) Are there special rules in the case of frozen money prcceeding from abroad?

The problems becomes even more evident in the case of assets the value of which is expressed in foreign currency and where this value, converted into national currency, is subject to fluctuations on account of devaluation. This may naturally result in a profit (in case of a devaluation of the own money) or a loss (in case of a devaluation of the foreign exchange). Are these profits or losses to be considered for taxation purposes, and if so in which form?

This seems to us an interesting subject for the readers of the *Bulletin*. As a matter of fact we have already dealt with this question in a previous number of the *Bulletin* (*Bulletin*, Vol. I, page 374 and cont.).

In this number we reproduce the main parts of two decisions as issued by the Court of Appeal of Brussels, which deal with the first subject.

According to the Belgian fiscal legislation the rate of exchange to be taken into account should be the one existing on the balancesheet date. The decisions given below also deal with the other two problems mentioned above.

In order to enable us to publish other information on this subject, we kindly request our readers to let us have any similar texts, and if any, their brief commentaries. These will be published in one of the forthcoming numbers of the *Bulletin*.

Cour d'appel de Bruxelles, 4 février 1955

TAXE PROFESSIONNELLE — Matière imposable. — Revenus réalisés ou recueillis à l'étranger, en devises étrangères. — Principe de la conversion en monnaie nationale au cours du change à la date de clôture du bilan. — N'est applicable que s'il existe un taux de change effectif permettant un transfert réel en monnaie nationale desdits revenus étrangers. — Revenus réalisés en pesos argentins et chiliens et en soles péruviens. — Constituant des avoirs non convertibles et bloqués à l'étranger. — Droit et obligation de les évaluer avec sincérité, bonne foi et prudence.

Le principe de conversion de devises étrangères en monnaie nationale au cours du change à la date de la clôture du bilan ne peut s'appliquer que pour autant qu'il existe un taux de change effectif permettant un transfert réel en monnaie nationale des revenus réalisés ou recueillis à l'étranger.

Les pesos argentins et chiliens et les soles péruviens, constituant les revenus produits ou recueillis par un redevable à l'étranger n'étant pas convertibles mais constituant des avoirs bloqués ou gelés à l'étranger, leur estimation en francs belges sur base d'un des divers cours du change établis dans ces pays respectifs ne correspond pas à la valeur réelle de ces avoirs. Le redevable, sachant que ces devises étrangères étaient inconvertibles et intransférable, avait le devoir de les évaluer avec sincérité, bonne foi et prudence, en tenant compte de leur dépréciation probable si pas certaine en raison des régimes au pouvoir et de la politique économique des gouvernements.

Vu la décision . . . etc. . . .

Attendu que . . . etc. . . .

Attendu que le litige ne concerne que l'estimation en francs belges des bénéfices réalisés à l'étranger par la requérante S.A. Belge, en monnaies étrangères dont la convertibilité est rigoureusement réglée par les gouvernements respectifs des pays où ces bénéfices furent réalisés pendant les exercices litigieux;

1. *Quant aux cotisations à la taxe professionnelle et à la contribution nationale de crise*:

Attendu qu'il n'est pas discuté qu'en vertu de l'article 2 des lois coordinnées, les revenus produits ou recueillis à l'étranger par la requérante sont assujettis aux impôts cédulaires;

Que le bénéfice imposable doit être déterminé en francs belges;

Attendu que les gouvernements d'Argentine, du Chili et du Pérou ont fixé des cours de change différents pour leur monnaie suivant la nature des opérations traitées;

Attendu qu'eu égard à l'existence des différents cours de conversion et aux fluctuations de ces devises, il importe non seulement de fixer la date à laquelle la conversion doit être faite mais aussi d'arrêter le choix du cours qui servira à l'évaluation en monnaie nationale des bases taxables;

Attendu que ce n'est qu'à la clôture du bilan que le bénéfice réalisé peut être déterminé, que si ce bénéfice est exprimé dans des monnaies étrangères, il faut se placer à cette date pour en opérer la conversion ou l'estimation en monnaie nationale;

Mais attendu que la monnaie est une mesure d'échange, que partant sa convertibilité en est une condition essentielle dans les transactions internationales;

Qu'en conséquence, le principe de conversion de devises étrangères en monnaie nationale au cours du change à la date de la clôture du bilan ne peut s'appliquer que pour autant qu'il existe un taux de change effectif permettant un transfert réel en monnaie nationale des revenus réalisés ou recueillis à l'étranger;

Attendu qu'en l'espèce, les avoirs en monnaies étrangères constituant les soldes, bénéficiaires à la clôture des bilans ne sont que des avoirs bloqués, intranférables, en monnaies sujettes à dépréciation;

Attendu qu'en vertu des dispositions de la loi sur les sociétés anonymes concernant les inventaires et les bilans ceux-ci ne peuvent contenir ni omission ni indication fausse dissimulant la situation réelle de la société (art. 79 de la loi sur les sociétés);

Attendu qu'en vertu d'un principe d'ordre public, le redevable est tenu de payer l'intégralité de ce qui est dû au Trésor mais l'Etat en revanche ne peut rien réclamer au delà;

Attendu que pour l'application des lois fiscales, il faut s'attacher aux réalités et non à des fictions;

Attendu qu'en conséquence les bénéfices imposables doivent être appréciés à leur valeur réelle;

Attendu que la requérante avait l'obligation de faire l'évaluation des monnaies étrangères avec sincérité et de bonne foi, mais aussi avec prudence afin de ne pas compromettre les résultats de l'exercice suivant, ce qui aurait été contraire aux intérêts du Fisc aussi bien qu'à ceux de l'entreprise elle-même; (en ce sens Cass. 22-4-1929 — Pas. p. 164); (Gand 12-7-1949 J.P.D.F. 1950, p. 17) (Brux. 24-11-1948 R.J. Fis. Fin. 1949, p. 16) (Coart-Frésart Rev. prat. des sociétés 1951, no. 4199);

Attendu que les éléments produits aux débats révèlent l'impossibilité de connaître avec exactitude les cours des changes que les gouvernements étrangers se réservaient de définir pour des opérations en capital ou non commerciales avec l'étranger;

Attendu qu'en l'espèce, il n'est pas contesté que les pesos argentins et chiliens et les soles péruviens qui constituaient les revenus produits ou recueillis par les succursales de la requérante, à l'étranger, n'étaient pas convertibles comme il est déjà dit ci-dessus mais constituaient des avoirs bloqués ou gelés à l'étranger;

Que, partant, leur estimation en francs belges sur base d'une des divers cours du change établis dans ces pays respectifs ne correspondait pas à la valeur réelle de ces avoirs;

Attendu que la requérante, sachant que ces devises étrangères étaient inconvertibles, et intransférables, avait le devoir de les évaluer avec sincérité, bonne foi et prudence en tenant compte de leur dépréciation probable si pas certaine en raison des régimes au pouvoir et de la politique économique des gouvernements;

Qu'en prenant comme base de calcul de ses bénéfices des cours de change théoriques et fictifs, elle aurait affiché des bénéfices fictifs qui auraient constitué des indications fausses dans les bilans, dissimulant sa situation réelle.

Attendu que la requérante a apporté la preuve d'un élément de dépréciation qui ne pouvait être évalué qu'ex-aequo et bono, qu'elle a fait cette évaluation en se basant sur un cours moyen de change pour exprimer en francs belges les bénéfices réalisés en devises inconvertibles et sujettes à dépréciation;

Attendu qu'à tort, l'Administration soutient qu'il faut appliquer les cours prévus pour les transferts commerciaux plutôt que ceux applicables aux transferts financiers puisque la loi fiscale ne prévoit pas cette distinction;

Attendu en effet que la loi belge doit admettre cette distinction établie par les gouvernements étrangers du fait qu'elle ne peut établir l'impôt

que sur la valeur réelle en francs belges des bénéfices réalisés à l'étranger en devises inconvertibles;

Attendu que les transferts des avoirs bénéficiaires constituent des transferts financiers et non des opérations de commerce, que c'est donc à bon droit que la requérante a tenu compte des cours de change applicables aux transferts financiers;

Attendu que l'Administration fait tout aussi vainement état de certains transferts qui auraient été effectués puisqu'il est établi, en l'espèce qu'il s'agit d'opérations isolées n'ayant aucun rapport avec le transfert des soldes bénéficiaires des exercices litigieux;

II. — *Quant à la taxe mobilière*:

Attendu que le litige ne concerne que les exercices 1947, 1948 et 1949 pour les dividendes perçus au Chili et au Pérou, la requérante n'ayant encaissé aucun dividende en Argentine;

Attendu que pour la taxe mobilière, le seul point litigieux est le choix du cours du change, la date du cours du change étant fixée par l'article 19 des lois coordonnées; que pour les motifs ci-dessus énoncés il y a lieu de se baser sur les cours applicables aux transferts financiers c'est-à-dire les cours libres;

Et attendu que la requérante a fourni les preuves qui lui incombaient, qu'en effet, pour les cotisations restant litigieuses enrôlées sous l'article 9554 elle a fourni la preuve contraire et pour les autres celle du chiffre exact de ses revenus;

Par ces motifs, la Cour,

Entendu en audience publique le rapport fait par Monsieur Verwilghen, Conseiller ff. de Président, et l'avis conforme donné par Monsieur l'Avocat Général Richard,

Ecartant toutes conclusions contraires;

Donne acte à la requérante qu'elle se désiste de son recours en tant qu'il porte sur la taxe mobilière enrôlée sous l'article 9554 de l'exercice 1947 rappel de 1945;

Reçoit le recours, le déclare fondé; annule les cotisations à la taxe professionnelle et à la contribution nationale de crise enrôlées sous l'article 9554 de l'exercice 1947 rappel de 1945, les article 9784 et 9785 de l'exercice 1952 par rappel de droits de 1947 et 1948; dit pour droit que pour la taxe mobilière enrôlée sous les articles 9784, 9785 et 9765 de l'exercise 1952 rappels de 1947, 1948 et 1949, les cotisations seront calculées sur la base des cours du change suivants:

a) pour un peso chilien: fr. b. 0,94843 pour 1947
fr. b. 0,7334 pour 1948
fr. b. 0,6241 pour 1949

b) pour un sole péruvien: fr. b. 3,58857 pour 1947
fr. b. 2,9543 pour 1948
fr. b. 2,29676 pour 1949

Annule les cotisations litigieuses à la taxe mobilière dans la mesure où pour les établir, il a été tenu compte de cours supérieurs à ceux ci-dessus;

Condamne l'Etat belge à rembourser à la requérante toutes sommes indûment perçues du chef des cotisations litigieuses dans la mesure de leur annulation; condamne l'Etat belge aux dépens.

IIe Ch. B. — *Prés. et rapp.*: M. Verwilghen, cons. ff. de prés. — *Min. publ.*: M. Richard, Avocat Général.

Source: *La Revue Fiscale*, 1955, p. 960

Cour d'appel de Bruxelles 15 mars 1955

TAXE PROFESSIONNELLE. — Matière imposable. — Produit de la vente d'actions d'une société italienne. — Lires non convertibles en francs et non transférables. — Ne constituent pas bénéfices taxables en Belgique. — Possibilité d'un replacement partiel en actions italiennes. — Indifférence.

TAXE PROFESSIONNELLE. — Matière imposable. — Plus-values, même non exprimées, sur les créances libellées en monnaies étrangères. — Considérées d'office comme réalisées et comme des bénéfices (art. 27, § Ier, al. 2, L. C.). — Fiction non applicable aux plus-values non réalisées mais néanmoins exprimées provisoirement par le redevable dans ses comptes ou inventaires sans les traiter comme bénéfices (art. 27, § 2bīs, al. b, L. C.).

La circonstance que le produit de la vente d'actions devait, par ordre des autorités italiennes, rester ou être remployé en Italie sans pouvoir, d'aucune façon, être transféré en Belgique, suffit pour justifier la façon dont le redevable a passé l'opération dans ses écritures, comptabilisant celle-ci prudemment au taux de 1 *lire pour* 1 *franc et sans aucunement la considérer comme un bénéfice puisque cette somme en lires n'etait ni convertible en francs belges ni transférable en Belgique.*

Il est indifférent que cette somme ait en fait pu être partiellement replacées en actions italiennes, puisque l'éventuelle plus-value de ces dernières — à la supposer réalisée, quod non — se serait exprimée à son tour en lires intransférables. Au point de vue „bénéfice" le paiement du prix est sans incidence tant que celui-ci n'est pas convertible dans la monnaie dans laquelle est exprimé le bilan.

D'après l'article 27, Ier, al. 2 des lois coordonnées, sont considérées d'office comme réalisees et ajoutées comme telles aux bénéfices les plus-values, même non exprimées, sur les créances libellées en monnaies étrangères quelles qu'en soient la forme et la nature. Cette fiction n'est pas applicable aux plus-values visées par l'article 27, § 2bis, b, alinéa qui déroge expressément aux dispositions du § 1er, *alinéa 2 de cet article.*

Aux termes de cet alinéa b, du § 2bis, *de l'article 27 des lois coordonnées sont immunisées „les plus-values non réalisées mais que le redevable a néanmoins exprimées provisoirement dans ses comptes ou inventaires sans les traiter aucunement comme bénéfices.*

Cette interprétation, fondée sur le rapprochement des textes, est conforme à l'intention du législateur.

Vu: etc.

Attendu etc.

Attendu que, procédant par voie de redressement, conformément à l'article 55 des lois coordonnées, le fonctionnaire taxateur a compris parmi les éléments imposables la dite somme de 32.610.991 fr. 46 représentant le bénéfice de la vente d'actions „X" calculé par l'Administration au taux de change de 1 lire pour 1,6375 franc (taux imposé en Belgique par l'autorité occupante pour des opérations de clearing étrangères au cas de l'espèce) alors que la société requérante l'avait comptabilisé au pair;

Attendu qu'il est constant que le produit de la vente de ces actions devait, par ordre des autorités italiennes, rester ou être remployé en Italie sans pouvoir, d'aucune façon être transféré en Belgique;

Que cette circonstance suffit pour justifier la façon dont la société requérante a passé l'opération dans ses écritures, comptabilisant celle-ci prudemment au taux de 1 lire pour 1 franc et sans aucunement la considérer comme un bénéfice puisque cette somme en lires n'était ni convertible en francs belges ni transférable en Belgique;

Attendu qu'il est indifférent que cette somme ait en fait pû être partiellement replacée en actions italiennes puisque l'éventuelle plus-value de ces dernières — à la supposer réalisée, quod non — se serait exprimée à son tour en lires intransférables;

Attendu qu'au point de vue „bénéfice" le paiement du prix est sans incidence tant que celui-ci n'est pas convertible dans la monnaie dans laquelle est exprimé le bilan;

Attendu que l'Administration invoque en vain l'article 27, § 1er, al. 2. des lois coordonnées d'après lequel sont considérées d'office comme réalisées et ajoutées comme telle aux bénéfices, les plus-values, même non exprimées, sur les créances libellées en monnaies étrangères quelles qu'en soient la forme et la nature;

Attendu en effet que cette fiction créée par l'article 27, § 1er, al. 2, n'est pas applicable aux plus-values visées par l'article 27, §2 bis, al. b, qui déroge expressément aux dispositions du § 1er, al. 2, de cet article;

Attendu qu'aux termes de cet alinéa b) du paragraphe 2bis de l'article 27 des lois coordonnées sont immunisées „les plus-values non réalisées mais que le redevable a néanmoins exprimées provisoirement dans ses comptes ou inventaires sans les traiter aucunement comme bénéfices;

Attendu que cette interprétation, fondée sur le rapprochement des textes, est conforme à l'intention du législateur (Cass. 9-3-48, Pas. 48-I-159);

Attendu qu'en l'espèce — et à bon droit — la plus-value invoquée par l'Administration n'a même pas été exprimée par la société requérante dans ses livres et n'a pu, dès lors, être traitée par elle comme bénéfice; qu'au surplus cette prétendue plus-value, non seulement n'a pas été réalisée, mais n'était pas réalisable;

Attendu q'il en ressort que la plus-value de 32.610.991 fr. 46 invoquée par l'Administration réunit toutes les conditions requises pour bénéficier de l'immunisation prévue par l'article 27, § 2bis, al. b) des lois coordonnées;

Que les cotisations litigieuses manquent donc de base dans la mesure où elles sont établies en tenant compte de la dite plus-value;

Par ces motifs, la Cour,

Entendu en audience publique le rapport de Monsieur le Conseiller Bareel et l'avis conforme de Monsieur Van de Vliedt, Avocat Général.

Reçoit le recours tel qu'il fut limité, et le déclare fondé;

Met à néant les cotisations litigieuses dans la mesure où elles ont été établies en tenant compte d'une plus-value de trente deux millions six cent dix mille neuf cent nonante et un francs guarante six centimes, provenant de la vente par la société requérante de ses actions „X";

Condamne l'Etat belge à restituer à la société requérante toutes sommes indûment perçues du chef des dites cotisations, ainsi annulées, avec les intérêts moratoires conformément à l'article 74 des lois coordonnées;

Condamne l'Etat belge aux dépens.

12e Ch. A. — *Prés.*: M. Rutsaert, cons. ff. de prés. — Rapp.: M. Bareel, cons. — *Min. publ.*: M. Van de Vliedt, Avocat Général.

Note d'observation: Cet arrêt a donné lieu à pourvoi en cassation de la part de l'Administration.

Source: *La Revue Fiscale*, 1955, p. 965.

IV

REVIEWS-COMPTES RENDUS

Revenue Administration, 1954. *Proceedings of the twenty-second annual conference — National Association of Tax Administrations* — Federation of Tax Administrators, 1313 East Sixtieth Street, Chicago 37, Illinois, 1955, 47 pp.

Der Wortlaut der Gutachten der 22. Versammlung der National Association of Tax Administration ist in diesem Büchlein aufgenommen.

RICHARD M. ZETTEL	—	The national Commission on intergovernmental relations — Tax aspects.
GEORGE W. PETERSEN	—	A fresh approach to personal property taxation.
WALTER F. REDDY	—	Michigan's 1953 specific tax on income.
STANLEY J. BOWERS	—	Special taxes on heavy vehicles — interstate aspects.
RONALD B. WELCH	—	A yardstick for measuring the proper size of the field audit force.
Z. D. ATKINS	—	Federal operations and potential effects on the state tax base.

J. HAISMAN, F. P. A. N. Z.: *Live Stock accounting* — New Zealand Society of accountants, 86 Lambton Quay, Wellington, N.Z., 1955, 32 pp.

Dieser Bericht bringt eine Betrachtung über die Bewertung des Viehstandes, wobei auch der Einkommensteuer in diesem Zusammenhang eine Betrachtung gewidmet ist.

A Tax Program for economic growth — National Association of Manufacturers, 2 East 40th Street, New York 17, New York, 1955, 55 p.p.

Das in diesem Büchlein beschriebene Programm bezweckt, zu einer Ermässigung der heutigen hohen Tarife der Einkommensteuer zu gelangen.

Diese ermässigung soll innerhalb einer Periode von fünf Jahren vor sich gehen. Der Zweck ist u.a. eine Erweiterung wirtschaftlicher Expansion handhaben zu können und die ständig wachsende Arbeitskraft aufzufangen. Es werden ausserdem auch die Probleme der Kapitalbildung und die einheitliche Erhebung von Verbrauchssteuern besprochen.

J. A. L. GUNN AND R. E. O'NEILL: *Commonwealth Taxation Board of Review Decisions* — New Series, Butterworth and Co (Australia) Ltd., L. & O'. Connell Street, Sydney, N.S.W. Vol. I-1952-770 pp. vol. 2-1953-587 pp., vol. 3-1954-716 pp.

In dieser Schriftenreihe ist eine grosse Anzahl von Rechtsurteilen aufgenommen worden, die in den Jahren 1945-1953 erlassen worden sind. Die Urteile betreffen Einkommensteuer, Erbschaft- und Schenkungssteuer, Lohnsteuer, Umsatzsteuer, Vergnügungs- und Kriegsgewinnsteuer.

Jeder Band enthält ein alphabetisches und chronologisches Register.

J. A. L. GUNN, F.A.C. (Aust.) and R. E. O'NEILL: *The Australian Income Tax Reports* — Butterworth and Co (Aust.) Ltd., 6-8 O'Connell Street, Sydney, Vol. 1-1940-560 pp., vol. II-1944- 583 pp., vol. III-1948-536 pp. vol. IV-1951-535 pp., vol. V-1954-688 pp.

In dieser Schriftenreihe ist eine grosse Anzahl von Rechtsurteilen auf dem Gebiete der australischen Einkommensteuer aufgenommen Korrespondenten aus verschiedenen Teilen Australiens haben die Unterlagen hierfür beschafft. Est ist eine eindrucksvolle Sammlung wichtiger Urteile geworden, die vielen eine grosse Stütze sein wird beim Studium der vielen Probleme auf dem Gebiete der australischen Einkommensteuer.

NEW ZEALAND SOCIETY OF ACCOUNTANTS: *Seventh Convention Proceedings* — (Held at Dunedin 7th-11th March 1955), New Zealand Society of Accountants, 86 Lambton Quay, Wellington — New Zealand, 132 pp.

Dieser Bericht ist in geschmackvoller Ausführung erschienen. Es werden die nachstehenden Themen behandelt:

1. The Accountant in Commerce by H. Cordery,
2. The Accountant in Public Service, by E. L. Greensmith
3. The Acccuntancy Profession in New Zealand with special Reference to the accountant in Public Practice by H. E. Strickett,
4. Accounting in the Post War Decade by T. A. Hiley.

LANCELOT J. SMITH, F.C.A.: *How to prepare your income tax* — 1956 edition, Wm Collins Sons and Co Canada Ltd. Publishers 53 Avenue Rd., Toronto, Canada, 1956, 184 pp.

Dies ist die 14. Auflage dieses vorzüglichen Buches, das beabsichtigt, Steuerpflichtigen eine Stütze zu sein bei den Problemen, die sich bei dem Ausfüllen der Formulare für die Steuererklärung ergeben. Ausserdem soll es als Richtschnur dienen fur diejenigen, die berufsmässig in Einkommensteuerangelegenheiten Hilfe leisten.

Das Buch ist sehr übersichtlich zusammengestellt und wird sicherlich vielen über die sich ergebenden Schwierigkeiten hinweghelfen. Ein Beispiel der verschiedenen Angabeformulare ist mit aufgenommen, ebenso ein gutes alphabetisches Schlagwörterverzeichnis.

UNITED NATIONS: *Quarterly Bulletin of Steel Statistics* — Vol. VI No. 6 United Nations, Geneva, 1955, 119 pp.

Band VI No. 4 dieses Bulletins zusammengestellt von der Industry Division — Economic Commission for Europe ist jetzt erschienen.

VERENIGING VOOR DE STAATSHUISHOUDKUNDE (Nederland)
(Vereinigung für Staatshaushaltskunde (Niederlande)

Preadviezen van H. J. Hofstra, Mr. H. F. van Leeuwen en Prof. Dr. M. J. H. Smeets over *de invloed van het in Nederland geldende belastingsysteem op de economische en sociale structuur van onze maatschappij en op het beleid, dat door de ondernemers in hun bedrijven wordt gevoerd.*

Gutachten von H. J. Hofstra, Dr. H. F. van Leeuwen und Prof. Dr. M. J. H. Smeets über den Einfluss des in den Niederlanden geltenden Steuersystems auf die oekonomische und soziale Struktur unserer Gesellschaft und auf die Umsicht mit der die Unternehmer ihre Betriebe leiten.)

Es ist einem Zusammentreffen von Umständen zuzuschreiben, dass diese im Jahre 1953 erschienenen Gutachten, sowie der Bericht der am 28.11.1953 abgehaltenen Hauptversammlung der „Vereniging voor de Staatshuishoudkunde" nicht früher angekündigt wurden.

Das Thema wird in den drei Gutachten von verschiedenen Seiten beleuchtet. Der erste Berichterstatter, Hofstra, umgrenzt in einer Einleitung die von ihm zu behandelnden Probleme der „fast unübersehbaren Materie" und behandelt den tatsächlichen Einfluss des Steuersystems auf die Betriebsführung der Unternehmer; ferner den Einfluss des Steuersystems auf die wirtschaftliche und soziale Struktur der heutigen Gesellschaft, um

dann zuletzt einige Schlussfolgerungen zu ziehen hinsichtlich der weiteren Entwicklung des niederländischen Steuersystems. Bei der Behandlung der beiden ersten Themen zeigt sich jedes Mal, wie sehr diese mit anderen Aspekten des gesellschaftlichen Lebens verflochten sind, wodurch man schwerlich zu sehr konkreten Urteilen kommen kann.

Die Steuererhebung, als ein organischer Bestandteil der allgemeinen Finanzführung der Obrigkeit gesehen, hat eine doppelte Aufgabe zu erfüllen: Handhabung des Gleichgewichts der Gemeinschaftsverhältnisse auf kurzen Termin und die Entwicklung der Gemeinschaft als „long term" Problem. Erstere beeinflusst die Unternehmerbeschlüsse, letztere die Politik der Obrigkeit. Theoretisch kann man sie voneinander trennen, tatsächlich vermischen sie sich völlig. Es sind grösstenteils äussere Umstände, die die Finanzführung der Behörde beherrschen.

So sieht der Verfasser in jedem Steuersystem nicht mehr als das Abbild der „Rechtsauffassungen einer bestimmten Gemeinschaft auf fiskalem Gebiete; keine Ursache, sondern Folge, kein Ziel, sondern nur Mittel."

Herr van Leeuwen weist in der Einleitung darauf hin, dass jedes Steuersystem Einfluss hat auf die Handlungen der Steuerpflichtigen, und dass die Steuern mehr und mehr Richtunggebend sind für das Tun und Lassen in unserer Gesellschaft. Er nennt Ziffern über die gesamten Steuermittel der letzten Jahre. Er hat seine Darlegung in 3 Abschnitte eingeteilt:

1. der Einfluss des Steuersystems auf die wirtschaftliche und soziale Strüktur.
2. der Einfluss auf die Konjunktur im allgemeinen.
3. der Einfluss auf die Betriebsführung der Unternehmer.

Eine eingehende Untersuchung zum ersterwähnten Punkte führt zu der Schlussfolgerung, dass zu geringe Kapitalbildung, das in Händen von Privaten Unternehmungsrisiko-tragend sein kann, notwendigerweise einerseits zu Verstarrung leitet, und andererseits zur Uebernahme diese Risikos durch die Obrigkeit.

Dies ist der Weg zur Sozialisierung.

Hinsichtlich des zweiten Punktes, die Anwendung der Steuererhebung für zielbewusste Beeinflussung der Konjunktur, hält der Verfasser es für sehr gut möglich, dass man hinter den Tatsachen zurück bleibt.

Im dritten Abschnitt wird der fiskalischen Gewinnberechnung besondere Aufmerksamkeit gewidmet. Der Verfasser hat hiergegen ernsthafte Bedenken und führt wünschenswerte Aenderungen auf, u.a. gewisse Zinsen von dem in das Unternehmen gesteckte eigene Kapital in die Betriebslasten aufzunehmen, Reserven für Neuanschaffungen zu bilden etc.

Das dritte Gutachten von Prof. Smeets ist das ausführlichste; es ist ungefähr ebenso gross wie die beiden anderen zusammen. Es kann nur einiges aus diesem Gutachten mitgeteilt werden. Nach einer kurzen Einleitung werden erst die Ursachen der hohen Steuern behandelt, danach der Einfluss auf die Betriebsführung besprochen und anschliessend der Einfluss auf die wirtschaftliche und oekonomische Struktur der Gesellschaft. In einer Schlussbetrachtung wird die Frage gestellt, ob die heutigen Steuern den Kollektivismus vorbereiten.

Das Gutachten enthält interessante Betrachtungen über wichtige Probleme, wie beispielsweise die Steuern im Zusammenhang mit Inflation, die regulierende Funktion der Steuern, Einfluss auf Umsatz, Kosten, Investierungen, auf die Rechtsform der Unternehmen, auf die Finanzierung u.s.w. Wenn der Verfasser dann am Ende zu einer Zusammenfassung gelangt, schliesst er sich der Meinung von Ursula Hicks an: „the larger, the budget, the greater its power of both good and ill." Einerseits Wiederverteilung der Einkommen, Handhabung des monetären Gleichgewichts, Arbeitsmöglichkeit auf möglichst hohem Niveau, andererseits Antasten der Privatinitiative, Neigung zum Sparen, Beeinflussung der Art des Sparens. Unternehmersdrang

und Investierungen werden unter Druck gesetzt. Nach Ansicht des Verfassers muss die Obrigkeit versuchen ihr Budget einzuschränken.

IRWIN D. J. BROSS, *Design for Decision*, — The Macmillan Company, New York 1953, 276 pp.

In this book the author, statistical consultant at Cornell University Medical College, clarifies the meaning of modern statistics in terms of the user. Complex decision problems require the concepts and technique of sequential decision. In the narrow sense this refers to a plan in which, at each stage, a decision is made as to whether to continue the experiment or to stop experimentation and make a terminal decision. In the broad sense, the direction or path of the experimentation is also determined by a stepwise plan.

The key role played by models in scientific thinking is illustrated by several examples. Some sampling techniques which provide fair samples are mentioned and a contrast is drawn between these methods and haphazard methods. Consideration is given to the way in which sampling concepts can be used to provide a model for data.

MITCHELL B. CARROLL, *Ninth Conference of the Inter-American Bar Association* — Dallas, Texas, April 14 to 21, 1956. Committee X, Fiscal Law.

Topic. 2. Prevention of double taxation on income from the operation of ships and aircraft in the Americas.

The basic reason for exempting the net income of a foreign shipping or air transport enterprise is the difficulty encountered by a government in applying the principle that it may subject a foreign corporation or individual to tax only on income allocable to sources within its territorial jurisdiction, which normally includes territorial waters within the limit of three miles. As a rule, only a very small part of the transportation service of a foreign enterprise is rendered within the territorial limits of the state, as compared with such service rendered outside the state, and it is extremely difficult to determine both the items of expense and the proportion of the income attributable to the service rendered within the territorial limits. Another important reason for exempting the income of foreign shipping and air transport companies is that they frequently receive subsidies from their governments, either in the form of payments for transportation of mail or otherwise, and it is not considered proper for one government to tax such payments made by another government.

For these reasons the United States have since 1921 offered to exempt the net income of foreign shipping companies on condition of reciprocity. As a consequence, it has entered into executive agreements or treaties with practically all the important maritime countries of the world and even with many of the maritime countries of lesser importance. Most of these other countries are parties to similar bilateral arrangements between themselves, with the result that the principle of reciprocal exemption of income of foreign shipping companies is almost universally applied. Annex incomplete list of International Executive Agreements, Treaties and Conventions providing for reciprocal exemption of shipping and air transportation profits.

Your Federal Income Tax, 1955. Treasury Department, Internal Revenue Service, Publication No. 17, 107 pp.

Available from: The Superintendent of Documents, Government Printing Office, Washington 25, D.C., U.S.A. at 25 cents per copy, plus an additional 10 cents for postage if mailed to a foreign country.

This booklet contains a comprehensive explanation of the income tax

law and the rules which apply to individual taxpayers. It is intended to provide answers to most of the difficult problems which an individual taxpayer might encounter in preparing his return. Plain non-technical language is used where possible, examples are given to show how the law works in actual situations, and check lists and indexes are available for easy location of topics of interest. This 1955 edition represents a departure from former issues. It is larger and covers a wider range of problems. Frequent use is made of concise subheadings throughout the text, so that the reader can easily locate, within a chapter, the details on any particular subject of interest to him without having to read an undue amount of other material. The last chapter consists of filled-in tax return forms with explanations.

Statistical Yearbook 1955 — 7th issue, Statistical Office of the United Nations, Department of Economic and Social Affairs, New York 1955, 644 pp.

This is the seventh issue of the United Nations Statistical Yearbook. Like all the previous issues, it has been prepared by the Statistical Office of the United Nations with the generous cooperation of national statistical offices and with the assistance of the specialized agencies of the United Nations and certain other inter-governmental bodies. For this issue of the Yearbook, no less than 148 countries or territories supplied information directly by means of the questionnaire.

The following new tables have been introduced into the present Yearbook.

147. World trade: prices by commodity groups.
153. Wholesale prices of selected commodities.
179. Cinemas: number and annual attendance.
182. Television broadcasting: transmitting stations.

In addition, two tables which last appeared in the 1949-1950 issue, relating to the economically active population and illiteracy, have been re-introduced, but in a somewhat more condensed form. As a result of these developments, and notwithstanding the curtailment of the time coverage of many tables and the suppression of some tables, it has been necessary over the past few years to expand the size of the Yearbook from 554 to 664 pages and to increase the number of tables from 177 to 183.

It is the aim of the Yearbook tables to present for the various countries over the period covered time series which are as nearly comparable internationally as the available statistics permit. For this purpose index numbers have been recalculated, wherever possible, to the base 1953=100, which is the new standard base period adopted for publications of the Statistical Office. A short note explaining the scope and nature of the figures shown usually accompanies the tables. Separate subject and country indexes, in both English and French alphabetical order, will be found at the end of the Yearbook.

Federal Tax Handbook 1956 — Prentice-Hall, 70 Fifth Avenue, New York 11, N.Y. 1955, 519 pp.

This 1956 Prentice-Hall Federal Tax Handbook is a handy short-cut guide to an understanding of the 1954 Internal Revenue Code as amended, and to the solution of the many personal and business income tax problems that confront you at tax return time and throughout the year. The charts, tables, lists and text are based on the latest law, regulations, rulings and court decisions in effect at the time of publication. It cites directly the Internal Revenue Code and regulations sections that apply. It gives specific references to the 1956 Prentice-Hall "Federal Taxes" volumes where you will find complete information and all the authorities on your questions — the related specific rulings, Tax Court and Federal Court decisions, and Code and regulations sections.

JOYCE STANLEY & RICHARD KILCULLEN, *The Federal Income Tax* — 3rd. edition, The Tax Club Press, 233 Broadway, New York 7, N.Y. 1955, 380 pp.

The Federal Income Tax law was substantially rewritten in the Internal Revenue Code of 1954. While much of the substance of the 1954 Code was taken from the earlier law, much of it was not, and what was retained was more often than not rewritten or at least reordered. The first and second editions of this book were written to make the income tax law easier to understand. This third edition is written both to make income tax law easier to understand and to serve as a guide through the new order, the new provisions, and the new terminology of the Internal Revenue Code of 1954.

This book is designed to make income tax law understandable to those with little or no previous familiarity in this field. It sorts out of the mass of tax material the provisions of general importance and explains what those provisions mean.

The sections of the Internal Revenue Code of 1954 are discussed one by one, in the order in which they appear in the Code. The book explains the meaning of the statutory language itself; it shows the relationship of one section to another; and points out the particular words and phrases of each section that, under the same or comparable provisions of the 1939 Code, have required interpretation and the general direction which such interpretation has taken.

The sections that deal with matters such as tax rates and exemptions are discussed only briefly since they are relatively familiar to most readers and do not need any particular explanation, e.g., those dealing with specialized or very technical problems, are not discussed but are referred to in the text of the book in their proper order.

Report of the Proceedings of the Ninth Annual Tax Conference convened by the Canadian Tax Foundation at the Royal York Hotel, Toronto, November 7-8th, 1955 — Canadian Tax Foundation, 191 College Street, Toronto 2 B, 1956.

This volume represents by far the most ambitious attempt the Canadian Tax Foundation has yet made to report on the proceedings of its annual conference. In previous years only the prepared papers and a brief summary of discussions have been published, but for the first time in this report is reproduced in full all discussion that took place in the several sessions.

The result is an accurate record of all that transpired in the various groups. A selection from the table of contents: Recent American and British tax developments; what I think is wrong with the personal income tax; businessman's brush-up on postwar business taxation developments; education for tax practice: Canadian and American experience.

D. MEYEROWITZ: *Estate Duty and Donations Tax* — Juta & Company, Cape Town, Johannesburg, 1955.

The Death Duties Act which, with occasional amendments, has served the Union since 1922, was repealed in the last session of Parliament, and replaced by the Estate Duty Act of 1955. This Act, except that it does not impose succession duty, in the main follows the pattern of the old Act. It levies estate duty only on property as defined in the Act, and not because of domicile or residence, save in some instances; many of the deductions which it allows in determining the dutiable estate are the same as under the old Act and so on. On the other hand, there are a number of important changes; for example, in regard to insurance policies, the valuation of limited interests ceasing, the valuation of donations, the taxation

of donations made after 24th March, 1955, without limitation as to time, the disappearance of an allowable deduction in respect of a "first" usufruct ceasing. Despite the intention expressed by the Treasury to simplify the assessment of estate duty, the Act is still a complicated affair, even more complicated in some respects than its predecessor, as a perusal of its provisions reveals, and there are numerous problems to which the Act, does not give a clear answer.

A donations tax has also been introduced, via the Income Tax Act, to complement the Estate Duty Act. There are a number of references in the latter Act to the donations tax, particular in relation to donations by companies deemed to be donations by individuals, and the value of donations.

We received supplements to the following loose-leaf services which are placed in our library;

Verlag Dr. Otto Schmidt KG. (22c) Köln, Hohenzollernring 78:

1. *Schnellkartei des deutschen Rechts*
2. Franz Scholz, Walter Boyens, Theodor Weil, Carl Herrmann, Werner Steinbring, Alfons Stenger: *Bewertung und Besteuerung des Grundbesitzes.*
3. *AO Kommentar*
4. Jakob Theis: *Praktischer Führer durch das Steuerrecht.*
5. *Steuerrechtsprechung in Karteiform,* (Mrozek-Kartei).

C. H. Beck'sche Verlagsbuchhandlung München und Berlin (13 b) München 23, Wilhelmstrasse 9:

1. Dr. Hedin Brockhoff: *Einkommensteuer-Recht.*
2. *Deutsche Steuergesetze.*
3. *Steuer-Richtlinien.* Textsammlung der Verwaltungsvorschriften des Bundes zum Steuerrecht mit Verweisungen und Sachverzeichnis.

Hammonia-Verlag G.m.b.H., Fachverlag der Wohnungswirtschaft, Brahmsallee 25, Hamburg 13:

Brecht, Bodien, Flender, Zwanck: *Der Lastenausgleich in der Wohnungswirtschaft.*

Industrie- und Handelskammer zu Köln, Köln 1:

Umsatzsteuer-Leitfaden für den Aussenhandel, 2. neubearbeitete Auflage von Reg. — Rat a.D.R. Weikardt.

N. Samsom N. V., Alphen aan den Rijn:

1. De Groot: *Nederlandse Belastingwetten.*
2. *Woordenboek Omzetbelasting.*
3. *Vrijstellingen en teruggaaf van invoerrecht.*

N.V. Uitgeverij FED, Roemer Visscherstraat 29, Amsterdam:

1. *Losbladig fiscaal weekblad.*
2. *Fiscaal Repertorium.*

Industrie-Verlag Carlheinz Gehlsen G.m.b.H. vorm. Spaeth & Linde, Alpsteinweg 4, Konstanz:

Deutsche Steuerzeitung, Ausgabe C.

S.A.D.G.A.I.S. — 3, Cité d'Hauteville, Paris (10e):

Code des Impôts directs, Tome VI, Impôt sur le revenue des personnes physiques.

Les Publications Francis Lefebvre, 15, rue Viète, Paris (17e):
Feuillets de Documentation pratique des Impôts Directs.

Saarländische Verlagsanstalt und Druckerei G.m.b.H. Ursulinenstrasse 1, Saarbrücken 3:
Wirtschaftsprüfer Dr. KLEIN: *Das Recht des Saarlandes.* Blattei für die Praxis der Justiz, Verwaltung und Wirtschaft.

UNITED NATIONS, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS: *Yearbook of International Trade Statistics* 1954. — Prepared by the Statistical Office of the United Nations, New York, 1955.

This is the fifth issue of the United Nations Yearbook of International Trade Statistics. It shows detailed annual statistics for 100 countries (as against 90 in the fourth issue) covering in 1954 about 98% of world trade.

For 55 of these countries (covering about 81% of world trade) the analysis by commodity of imports and exports is made according to the United Nations Standard International Trade Classification (SITC). The SITC consists of 570 items; these are distributed among 150 groups designed to distinguish those commodities for which data are normally sought; the groups in turn are consolidated into 10 sections which serve to subdivide the trade aggregate according to broad economic categories. Each of the tables indicates in its heading the system of trade to which the figures relate. More detailed notes are, where necessary, made under Tabel I. Each of the tables in this Yearbook indicates in its heading whether c.i.f. or f.o.b. valuation is used. Where valuation is not based on the value at which goods were purchased or sold, the fact is noted under Table 1. The figures shown are the most recent revisions available at the time of compilation. It should be remembered, however, that many countries do not publish final figures for external trade for several years after the period to which the figures refer.

UNITED NATIONS, DEPARTMENT OF PUBLIC INFORMATION, *Yearbook of the United Nations* 1954 — New York, 1955.

The Yearbook of United Nations 1954, the eighth such annual permanent reference book on the work of the UN and its specialized agencies, provides an impartial and complete review of the work of the various UN organs for the year covered, as well as a summary of the debates and texts of adopted resolutions. The chapters dealing with economic and social questions illustrate the wide range of United Nations interest in these matters: an assessment of the world economic situation; problems of economic development and of maintaining full employment and economic stability; transport and communications, human rights; forced labor and prisoners of war; freedom of information; refugees; social welfare questions; UNICEF; the status of women; Conditions and developments in Non-Self-Governing and Trust Territories are dealt with in other chapters, as are the work of the International Court of Justice and the International Law Commission. Fully indexed, this volume of more than 600 pages, also gives comprehensive guides to the documents pertaining to specific questions under discussion. Unlike previous editions, however, the current Yearbook includes texts and documentary citations in separate notes following each main subject, rather than incorporating these texts in the story of events. This change was made in an effort to make the volume more useful both to those who wish to get a general picture of the subject and to those who intend to study it in greater detail. The previous volumes, covering the years 1946 to 1953, are also available through the authorized agents for UN publications.

UNITED NATIONS, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS: economic Survey of Europe in 1955, including studies of investment problems and policies of European countries and labour market problems in Western Europe. Prepared by the Research and Planning Division Economic Commission for Europe, Geneva 1956.

The present Survey is the ninth in a series of reports prepared each year by the secretariat of the Economic Commission for Europe. A major object of these Surveys, and of the quarterly Economic Bulletins which supplement them, is to analyse recent developments in the European economy and tendencies elsewhere which may significantly affect the economic framework within which the countries of Europe have to determine their policies. It has also become the practice in each Survey to focus attention on some longer-term issue which is yet immediately relevant to governments' current economic policies. The present Survey devotes special attention to investment problems and policies in western and eastern Europe. In addition it contains a brief discussion of these problems as they appear in Yugoslavia, where an attempt is being made to work out solutions in ways different in many respects from those followed in either eastern or western Europe. A closely related topic — of a long-term nature, yet also of immediate relevance to present-day policies, — is discussed in Chapter V, which examines the labour market problems of Western Europe against the background of the high levels of employment now existing in the majority of the countries of this area.

In previous years the secretariat has been handicapped in the performance of its tasks by the lack of regularly published, well-defined statistical series for the countries of eastern Europe. Although to a great extent this is still the case — in particular, up-to-date statistics of the international trade of these countries are still lacking — the past year has marked a distinct improvement. More statistics on industrial production, agricultural yields and retail trade have recently been published in Hungary, Poland and eastern Germany. The secretariat has, moreover, received hitherto unpublished statistics of investment in Bulgaria, eastern Germany and Hungary, and it has benefited during the last year from an opportunity to discuss with Soviet officials and economists both the coverage of Soviet statistics and the investment policies of the Soviet Union. These facilities have greatly assisted the secretariat in its work on investment problems.

UNITED NATIONS, DEPARTMENT OF ECONOMIC AFFAIRS, FISCAL DIVISION *International Tax Agreements* — Vol. IV and V, New York 1954, 296 pp. Sales Number 1954 XVI. 1

In der Schriftenreihe „International Tax Agreements" ist jetzt Nr. IV erschienen, womit die Publikationen des Wortlautes der neuen Doppelbesteuerungsverträge den Stand vom 1. Juni 1953 erhalten haben. Zugleich ist Band V. veröffentlich worden, womit der Stand der *abgeschlossenen* Verträge auch *up to date* ist bis zum 1. Juni 1953.

RONALD STAPLES: *„Taxation" Manual* — Taxation Publishing Company Ltd. 98 Park Street, London, W.1., 1955, 441 pp.

Eine Neuauflage dieser bekannten Ausgabe ist jetzt erschienen. Diese Angelegenheit wurde benutzt den Wortlaut zu revidieren und die Änderungen die seit 1953 durchgeführt werden im Text aufzunehmen. Auch jetzt ist der Zweck dieses Buches, ein praktischer Kommentar auf die *Income Tax* and *Sur Tax* zu sein, beibehalten. Die Abschreibungssätze sind aufgenommen. Eine Tabelle in der die alte Gesetzgebung der Income Tax 1952 mit der heutigen verglichen wird und ein Schlagwortverzeichnis und ein Einteilsverzeichnis ergänzen dieses vorzügliche Buch.

KURT NEUER, & OSKAR ZEICHMEISTER: *Steuer-Index über Rechtsmittelentscheidungen, Erlässe und Schriften des Jahres* 1954 — Wirtschaftsverlag Dr. Anton Orac, Wien I, Graben 17, 1955, 235 pp.

Owing to the multitude of case law, decrees and articles in the field of taxation it is not easy for the scientific practitioner and the practical man to obtain a systematic survey of this material.

An extensive and expensive documentation material is necessary and then there is just a chance, that an essential article is lacking in this material, as it is not possible to have all existing sources at one's disposal. With respect to Austria the "Steuer-Index" give the solution. This work, appearing each year, contains per tax and for each tax per article all important decisions articles, etc. A summary of the decisions etc. is also given. A table of contents facilitates de looking up.

We hope, that the author and the editor will continue this work for many years, as it is very important in the field of documentation.

STANLEX S. SURREY AND WILLIAM C. WARREN: *Federal Income Taxation* — Cases and materials — Brooklyn 1953 — The Foundation Press Inc.

Although since the issue of the first print of this bulky work in June 1950 only a short period has elapsed, the changes that have taken place in the field of legislation and case law have justified a new print. The Revenue Acts of 1950 and 1951 as well as a number of smaller acts contain a great quantity of new material, to say nothing of the incessant flow of judicial and administrative decisions. The reorganization of the Revenue Department has brought about many changes too, principally in the field of research. This work, which in the first place, is intended for use in American Law Schools, treats very extensively the Federal Income Tax, which as already known, is applicable also to corporations, while the important judicial and other decisions are digested.

Side by side with it, however, space has been allotted to an historical review, in which the development of the tax levying is briefly sketched. Also those organs, whose task it is to contribute to the growth and development of tax-law, viz. legislature, administration and judicial authorities are subjected to an examination, while finally the procedure to be followed before the different bodies and he, who is generally charged with this — the tax adviser — are closely examined by the authors.

A table of contents together with a register of the judicial and administrative decisions treated, as well as an extensive index conclude this important work of 1308 pages.

W. SCHÄDEL: *Mineralölsteuer und Mineralölzoll* — 2. völlig neubearbeitete Auflage — Verlag Franz Vahlen G.m.b.H. Berlin und Frankfurt a.M. 1956, 234 pp.

The first edition of this work has been reviewed in Bulletin Vol. VII p. 352. In 1955 a number of important alterations were made in the field of the "Mineralölabgaben". Besides, the circumstance, that the first edition was sold out soon after its appearance, these alterations have been the principal reason for a revision of this book. Like the first edition this second edition is also a handy and practical guide.

K. ZÜLOW & M. HENZE & Dr. R. SCHUBERT: *Die Besteuerung der Genossenschaften*, 3. völlig neubearbeitete Auflage — Verlag Franz Vahlen G.m.b.H., Berlin und Frankfurt a.M. 1955, 231 pp.

This book contains an extensive treatment of the taxation on cooperative societies in Western-Germany. The subjects of the treatment are not only the profits and property taxes, but also sales tax is dealt with in an extensive manner, while some pages deal with the "Lastenausgleichsabgaben". A

special part treats the taxation of the members of the cooperative societies. In our opinion the book in question is a valuable addition to an old subject which always remains up-to-date, and is dealt with in a responsible way.

H. Büning: *Die Zusatzbesteuerung des Textilunternehmens* — Schriftenreihe "Der Betrieb", Verlag Handelsblatt G.m.b.H., Düsseldorf, 67 pp.

The question of the measures to be taken against the disturbance of the conditions of competition, by the levying of sales tax, retains a central place in sales tax legislation. Such is also the case in the Federal Republic of Germany.

Since 1934 the government has been authorised to take measures in this respect. Since 1951 the government has made an extensive use of this authorization; particularly in respect to the textile-industry special provisions were made. This work treats these provisions in a systematic manner.

Pierre Beaumont: *Harmonisation des Fiscalités Européennes. L'impôt sur l'énergie* — Librairie Générale de Droit et de Jurisprudence, Paris, 1955, 142 pp.

In volume VII page 301 we drew the attention to a book by Eugène Schneller: *L'impôt sur l'énergie*, 1952, in which it was demonstrated, that the whole fiscal system can be replaced by one tax on energy, a thesis, to which Prof. Laufenburger has brought forward objections. This tax has drawn the attention again, now from the circle of the "Collège d'Europe" in a study of 142 pages. The economic harmonizing of Europe will have to be attended with the harmonizing of tax systems. The author is of opinion that this is possible by replacing all direct and indirect taxes with a tax on energy.

Together with these tax customs duties also taxes with a non fiscal aim can exist.

The book is an important expression of striving after harmonization, which also exists in other domains.

The first chapter deals with a comparative study of the European fiscal systems, the second chapter deals with the harmonizing of these systems. This is only possible by means of a total reorganization of the structure. The sources of energy: fuel, electricity and oil-products are to bear the whole taxation. The third chapter gives the elaboration; the fourth the rates of taxation; the fifth the burden of this tax as suggested. A great number of tables elucidate the intention of the author.

Dr. jur. Erich Zimmerlin: *Aargauisches Steuerrecht* (Teil I 1946) and diss. mit Dr. jur. H. Heuberger (Teil II 1953) — Verlag H. R. Sauerländer & Co., Aarau 226 resp. 166 pp.

The first part contains the text of the Acts and decrees with commentaries of the taxes levied in the Swiss Canton Aargau. The second part comprises the alterations which were made in the period 1946-1952 and reviews the alterations.

Dr. jur. H. Keller *Aargauisches Aktiensteuerrecht* — Keller Verlag, Aargau, 1953, 106 pp.

This work contains a commentary on the "Aargauisches Steuerrecht". It is a work giving practical indications. An extensive table of contents facilitates the looking up of subjects.

J. La Cour and A. Wass: *Skattelovene* — Glydendalske Boghandel Nordisk Forlag, København, 1955. 358 pp.

A new edition of this Danish tax law collection, systematically arranged. The texts of the most important Danish tax Acts and decrees are given.

COMMUANAUTÉ EUROPÉENNE DU CHARBON ET DE L'ACIER
HAUTE AUTORITÉ

DECISION NO. 29-55 DU 3 NOVEMBRE 1955

complétant la décision No. 3-52 du 23 décembre 1952 relative au montant et aux modalités d'application du prélèvement prévu aux articles 49 et 50 du Traité

La Haute Autorité

Vu les articles 49 et 50 du Traité;

Vu la décision No. 3-52 du 23 décembre 1952 relative au montant et aux modalités d'application des prélèvements prévus aux articles 49 et 50 du Traité; (Cette décision a été reproduite dans le *Bulletin vol. VI, p.* 318).

Considérant que, aux termes de l'article 50, alinéa 3 du Traité, la Haute Autorité peut prononcer des majorations de retard à l'encontre des entreprises qui ne respectent pas les décisions prises par elle en matière de prélèvement;

Considérant que la Haute Autorité peut dès lors se réserver la faculté de faire remise partielle ou totale de la majoration automatique prévue par l'article 6 de la décision No. 3-52, dans les cas où elle l'estime justifié;

Décide:

Article premier

L'article 6 de la décision 3-52 susvisée est complété par un troisième alinéa ainsi conçu:

„Sur demande de l'entreprise intéressée, la Haute Autorité peut, dans les cas où elle l'estime justifié, faire remise partielle ou totale des majorations de retard prévues aux alinéas précédents."

Article 2

La présente décision entrera en vigueur à l'intérieur de la Communauté le 1er décembre 1955.

La présente décision a été libérée et adoptée par la Haute Autorité au cours de sa séance du 3 novembre 1955.

Par la Haute Autorité
Le Président
RENE MAYER

DECISION NO. 31-55 DU 19 NOVEMBRE 1955

modifiant et complétant la décision No. 2-52 du 23 décembre 1952 fixant les conditions d'assiette et de perception des prélèvements visés aux articles 49 et 50 du Traité

La Haute Autorité,

Vu les articles 49 et 50 du Traité;

Vu la décision No 2-52 du 23 décembre 1952, fixant les conditions d'assiette et de perception des prélèvements visés aux articles 49 et 50 du Traité; (cette décision a été reproduite dans le *Bulletin vol. VI*, p. 318).

Considérant que l'expérience a montré que, pour des motifs d'économie et de simplification de gestion, il n'y a pas lieu de poursuivre la perception du prélèvement, lorsque les montants à percevoir sont d'importance minime;

Considérant qu'il est apparu également que la Haute Autorité doit pouvoir, en cas de défaut de déclaration de la part d'une entreprise, établir elle même le tonnage imposable et le montant du prélèvement correspondant;

Après consultation du Conseil,

Décide:

Article premier

Les dispositions de l'article 4, chiyre 1, de la décision survisée No. 2-52 sont remplacées par les dispositions suivantes:

„Article 4

(1) Les prélèvements sont dus par chaque entreprise sur le tonnage de sa production imposable. Celle-ci doit faire l'objet d'une déclaration mensuelle de l'entreprise, à défaut de laquelle le tonnage imposable et le montant du prélèvement correspondant sont établis par la Haute Autorité. Le prélèvement n'est pas perçu si, d'une part l'entreprise a déclaré sa production mensuelle et d'autre part

le montant du prélèvement effectivement dû est inférieur à 40 unités de compte de l'U.E.P. Cette limite peut être reduite par décision de la Haute Autorité."

Article 2

La présente décision sera applicable aux prélèvements afférant aux production réalisées à partir du 1er décembre 1955.

La présente décision a été délibérée et adoptée par la Haute Autorité au cours de sa séance du 19 novembre 1955.

Par la haute Autorité
Le président
RENE MAYER

Great Britain

INLAND REVENUE
EXTRA-STATUTORY CONCESSIONS*
ALTERATIONS TO EXISTING CONCESSIONS

INCOME TAX

Number on list in Board's 93rd Report.

19. Dependant Relative Allowance.

This concession provided that where a dependent relative does not reside with the claimant and receives from him less than £50 per annum, a deduction is allowed of the actual amount of the contribution, and where contributions are made by two or more persons, though not amounting to £50 in all, a deduction is allowed to each of his actual contribution.

The figure of £50 has been raised to £60 with effect from the year 1953-54, following the increase by Section 14(3), Finance Act, 1953, of the statutory dependent relative allowance from £50 to £60.

26. Double Taxation Relief: Deduction of unrelieved Oversea Tax.

Under this concession, where the deduction in computing oversea income for income tax and profits tax purposes of an excess of oversea tax which cannot be credited under a double taxation agreement would result in an increase of the total tax liability because of the existence of relevant distributions chargeable to profits tax at the higher rate, the deduction is not made.

The law relating to unilateral relief from double taxation was altered by Section 26, Finance Act, 1953, and the treatment of oversea tax in excess of the amount which can be credited became the same for unilateral relief cases as for cases governed by double taxation agreements; the concession has therefore been extended to the former cases.

ESTATE DUTY

Number on list in Board's 95th Report.

1. Civilian Deaths in Malaya, Korea and Kenya.

This concession provided that the relief from estate duty formerly granted by wartime legislation (which expired in October, 1950) to the estate of civilians dying from injuries caused by the operations of war is applied to the estates of civilians dying from injuries caused by the operations in Malaya and Korea. The concession has been extended to deaths of a like nature occurring in Kenya.

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* See also Bulletin vol. IX, p. 56.

EXTRA-STATUTORY CONCESSIONS WHICH HAVE CEASED TO OPERATE DURING THE YEAR ENDED DECEMBER 31st, 1954

INCOME TAX

Number on list in Board's 93rd Report.

7. Partnership Changes.

The Chancellor of the Exchequer announced on 5th November, 1954, in reply to a Parliamentary Question (Parliamentary Debates, House of Commons, Vol. 532, Col. 87, Written Answers) that in view of the enactment of Section 19, Finance Act, 1953, under which the income tax cessation and commencement provisions now apply on a change in the constitution of a partnership unless all the partners claim continuation treatment, this concession would not be applied where successive changes of partnership occurred in future.

10. Relief in Respect of Losses.

This concession has been superseded by Section 20, Finance Act, 1954, which enables capital allowances to be taken into account in arriving at a loss for the purposes of relief under Section 341, Income Tax Act, 1952 (formerly Section 34, Income Tax Act, 1918).

27. Double Taxation Relief: Non-Resident Director of a United Kingdom Company.

The effect of this concession was to give credit for oversea tax in accordance with the terms of the Sixteenth Schedule, Income Tax Act, 1952 (which relates to relief under double taxation agreements), notwithstanding that the taxpayer was not resident in the United Kingdom. Following the introduction of unilateral relief in 1950 and the amending provisions of Section 26, Finance Act, 1953, a relief similar in amount to that formerly given by concession is now available by statute and the concession has accordingly been terminated.

Number on list in Board's 94th Report.

1. Double Taxation Relief: Interest or Royalty exempt under double taxation agreement.

The relief given by this concession is now available under statutory regulations made by the Commissioners of Inland Revenue under powers conferred upon them by Section 351, Income Tax Act, 1952 (The Double Taxation Relief (Taxes on Income) (General) (No. 3). Regulations, 1954-S.I. 1954 No. 1366).

Number on list in Board's 93rd Report

ESTATE DUTY

12. Property held in joint tenancy, etc.

13. Reversionary Interests.

These two concessions have been withdrawn as regards cases falling within Section 33 (I) Finance Act, 1954 (which made new provision for non-aggregation of certain property in certain circumstances), i.e., where

the death occurred on or after 30th July, 1954. The concessions continue to operate as before in relation to other relieving sections.

Number on list in Board's 94th Report

I. Property Abroad Requisitioned by the Government.

In view of the revocation as from 5th August, 1953, of Regulation I of the Defence (Finance) Regulations, 1939, this concession has been withdrawn in relation to deaths occurring after 5th February, 1954.

PROFITS TAX

I. Double Taxation Relief: Interest or Royalty exempt under double taxation agreement.

The relief given by this concession is now available under statutory regulations made by the Commissioners of Inland Revenue under powers conferred upon them by Section 351, Income Tax Act, 1952 (The Double Taxation Relief (Taxes on Income) (General) (No. 3) Regulations, 1954-S.I.1954 No. 1366).

Source: *The Accountant, vol. CXXXIV. no.* 4232.

LES IMMUNITÉS DIPLOMATIQUES FISCALES

La Commission du Droit International de l'O.N.U. travaille actuellement à la codification du Droit international en matière de relations et immunités diplomatiques.

Le Secrétariat de la dite Commission a diffusé des mémoires préliminaires devant servir de point de départ au Rapport que devra rédiger M. Sandstrom.

Il y existe quelques considérations sur les immunités fiscales qu'il serait intéressant de retenir.

Fauchille classe les immunités fiscales parmi les privilèges de courtoisie. Elles n'en sont pas moins si bien établies que l'on peut les considérer comme faisant partie des usages généralement acceptés.

Il est plus délicat d'en déterminer l'étendue, et de fixer les impôts et taxes auxquelles ces immunités s'appliquent. Nous en traiterons tout en faisant référence au droit positif égyptien.

Les impots personnels

Aucun doute n'existe sur le point de savoir que les agents dipomatiques et les membres de leurs familles vivant avec eux sont exempts de tous impôts des pays où la mission est accréditée, sur leur personne, leur revenu et, d'une manière générale, leurs effets personnels. Cette immunité comprend, cela va sans dire, les affaires personnelles, le mobilier, etc.

Mais que penser des revenus provenant des affaires privées de l'agent dans le pays où il exerce sa mission?

Les auteurs qui cherchent à établir une distinction entre les actes officiels et non officiels des agents, paraissent ne pas vouloir admettre que leurs revenus, dans la mesure où ils proviennent de sources privées situées dans l'Etat de leur résidence pour le moins devraient bénéficier de l'immunité.

Nous lisons dans le *Harvard Research in International Law* important projet publié en 1932, ce qui seuit:

„Ici, comme dans bien d'autres cas, on confond la responsabilité du diplomate pour ce qui est de l'imposition de ses biens, et son immunité contre toute mesure coercitive de la part de l'Etat où il est accrédité et qui serait destinée à faire valoir un droit de rétention, de gage ou de privilège sur ses biens ou à forcer l'intéressé à payer l'impôt."

Cependant, *Harvard Research* concède que le diplomate est obligé de payer les taxes prélevées pour des services effectivement rendus, et que les immeubles possédés à titre privé par les agents diplomatiques sont assujettis aux impôts locaux. Le principe de l'immunité se trouve affirmé dans un grand nombre de législations nationales. Cependant, il est difficile très souvent de distinguer nettement entre les immeubles possédés à titre privé ou occupés par l'agent en raison ou à l'occasion de ses fonctions.

Le système egyptien

Quel est le système adopté par l'Egypte en ce qui concerne les exemptions des impôts personnels?

En ce qui a trait à l'impôt sur le revenu du travail, il n'existe pas de texte exprès. Cependant la pratique est très libérale. En effet, elle exempte non seulement les salaires des membre attachés aux ambassades, légations et consulats, mais également les traitements et salaires qui seraient payés d'une façon générale, directement par le Trésor du Gouvernement étranger

ou encore par l'intermédiaire des Instituts auprès desquels ils sont attachés (V. Circulaire n. 23, Impôt général, dans cette *Gazette*, n. 59, p. 37).

Quant à l'impôt général sur le revenu il existe un texte spécial. L'art. 4 de la loi n. 99 de 1949 déclare, en effet, affranchis de l'impôt général:

„*Les ambassadeurs, les ministres plénipotentiaires et les autres agents diplomatiques, les consuls et agents consulaires de nationalité étrangère, mais seulement à charge de réciprocité et dans la mesure où les pays qy'ils représentent concédent des avantages analogues aux agents diplomatiques et consulaires égyptiens*".

En ce qui a trait à l'impôt sur le revenu des capitaux mobiliers et les avoirs des ambassades et légations étrangères, relevons qu'il existe là aussi une exemption accordée suivant un avis du Conseil d'Etat. Aux termes de cet avis, soumettre les Missions politiques à l'impôt „serait contredire les droits de souveraineté des Etats que ces Missions représentent". En conséquence, les biens appartenant à des Missions politiques et consulaires „ne sont pas assujettis à l'impôt sur les intérèts des créances en Egypte, et ce contrairement à ce qui a lieu lorsqu'il s'agit de biens appartenant aux membres des Missions diplomatiques et consulaires en leur qualité personnelle, car rien n'empêche d'assujettir ces biens à l'impôt" (V. texte des Instructions administratives dans cette *Gazette*, n. 63, p. 33).

L'HOTEL DE L'AMBASSADE

Que faut-il penser des immeubles — propriété soit de l'Etat étranger, soit de l'agent au nom de cet Etat — et utilisés à des fins officielles, y compris la résidence du chef de la mission.

Les ouvrages de Droit international (en particulier, *Annual Digest*, 1941-1942, affaire n. 106, p. 337 et s.) citent un arrêt célèbre de la Cour suprême du Canada du 2 avril 1943. Voilà de quoi il s'agissait:

La ville d'Ottawa prélevait des impôts fonciers sur des immeubles propriété de légations étrangères et la question était de savoir si la dite ville avait compétence à cet effet. La majorité de la Cour décida qu'aucune taxe locale ne pouvait être imposée à ces propriétés appartenant à des Etats étrangers.

Après avoir repoussé la théorie (actuellement désuète) dite de l'exterritorialité, l'arrêt analyse la question de savoir si de telles propriétés sont imposables. Il distingue entre les taxes prélevées en paiement de services effectivement rendus et les impôts proprement dits.

En ce qui concerne les impôts proprement dits, l'arrêt constate que l'imposition a pour base l'existence d'une personne ou d'une chose imposable et dont on peut exiger le paiement, en vertu d'un „pouvoir politique superieur". Il apparait sans peine „qu'un souverain ne peut exiger ces impôts ni d'un autre souverain qui est son égal, ni de l'agent diplomatique de ce dernier".

La Cour examine ensuite le point de savoir si l'impôt foncier exigé en vertu de lois générales peut être exigé en ce qui concerne les propriétés diplomatiques et elle conclut qu'en Angleterre, de tels impôts ne peuvent être recouvrés en ce qui concerne les immeubles occupés par des agents diplomatiques ou dont les dits agents ou les Etats qu'ils représentent sont propriétaires.

La Cour définit ensuite ces impôts comme un droit de rétention ou de gage, ou un privilège (en anglais „*lien*"), sur l'immeuble en vertu duquel cette propriété peut être vendue par l'autorité compétente, le produit de la vente étant utilisé pour le recouvrement des impôts dus et non payés. Or, dit la Cour, une telle vente implique „*coactio*", ce qui pourrait obliger l'Etat étranger de comparaître devant les autorités locales pour défendre des droits qu'il estimerait lésés.

La Cour examine ensuite l'argument souvent invoqué tendant à affirmer qu'un impôt prélevé sur un immeuble n'est pas directement exigé d'un souverain étranger. Mais elle le rejette quant aux immeubles diplomatiques en disant entre autres que „créer un tel impôt revient à effectuer un prélèvement sur les biens d'un souverain étranger, ce qui serait contraire au principe *„par in parem non habet imperium"*.

La Cour constate au surplus l'impossibilité de recouvrer ces impôts à l'encontre d'un souverain étranger ou de son représentant qualifié et elle en déduit que de telles propriétés ne peuvent être mises au rôle des immeubles imposables.

A relever que la loi égyptienne n. 56 du 4 février 1954 modifiée, relative à l'impôt sur la propriété bâtie, (V. texte mis à jour dans cette *Gazette*, n. 64, p. 19 et suivants) dispose en son article 21 que sont exemptés de l'impôt:

„Les hôtels d'ambassades, de légations, de consulats appartenant à des puissances étrangères, à condition de réciprocité quant aux hôtels, propriété de l'Etat, qui se trouvent sur le territoire des dites puissances".

LES DROITS DE DOUANE

Il est généralement admis par la doctrine et la jurisprudence que l'exemption des droits de douane des effets personnels des agents diplomatiques et de leurs familles, ainsi que des objets destinés à l'usage de la mission, est dictée par la courtoisie internationale, mais qu'il ne s'agit pas là d'une règle impérativement prescrite par le droit des gens.

En Egypte, cette exemption est concédée sur une base de réciprocité.

En effet, l'art. 9 du Règlement douanier du 2 avril 1884, modifié, par la loi n. 507 du 19 octobre 1955 (V. texte dans cette *Gazette*, n. 63, p. 23) édicte:

„Sont exemptés de la vérification et du paiement des droits d'entrée et de sortie ad valorem, du droit ad valorem additionnel, des droits de consommation, du droit d'accise sur la benzine, des droits de quai et des taxes municipales:

(a) Les effets personnels et les objets d'usage personnel importés appartenant aux ambassadeurs, ministres plénipotentiaires, chargés d'affaires, conseillers, secrétaires, consuls, vice-consuls de carrière et attachés inscrits sur les listes qui seront publiées par le Ministère des Affaires Etrangères, ainsi que ceux appartenant à leurs épouses et leurs enfants mineurs;

(b) Les objets importés par les ambassades, légations, consulats et agences de consulats, destinés à un usage officiel, à l'exception des produits alimentaires, boissons alcooliques et tabacs.

Les exemptions mentionnées aux paragraphes précédents ne seront accordées qu'à charge de réciprocité et dans ses limites et ce après approbation par le chef de la mission diplomatique. Le connaissement doit etre rédigé au nom de celui qui a le droit de bénéficier de ces exemptions. S'il est rédigé au nom d'un autre ou s'il est au porteur, l'exemption ne pourra être accordée que sur autorisation du Ministre des Finances et de l'Economie.

Un arrêté de Ministre des Finances et de l'Economie pris d'accord avec le Ministère des Affaires Etrangères pourra exempter du paiement des droits et taxes susvisées les objets mentionnés au paragraphe (a) certains étrangers non mentionnés qui occupent un rang social élevé pour des raisons de courtoisie internationale et à charge de réciprocité.

Toutefois, au cas où le bénéficiaire du droit d'exemption de ces objets en disposerait au cours des cinq années depuis la date de leur retrait de l'enceinte douanière, à une personne ne jouissant pas du droit d'exemption, les droits et les taxes susvisés sont exigibles à moins que la règle de réciprocité n'en décide autrement".

Ainsi qu'on pourra le constater par ce qui précède, la législation égyptienne ainsi que la pratique de l'Administration sont très libérales quant à l'octroi des immunités fiscales diplomatiques.

Source: *La Gazette Fiscale, Commerciale et Industrielle, no* 66, *février* 1956

AUSTRALIA

EXTRACTS FROM PRIME MINISTERS' STATEMENT

The following changes in the tax legislation in Australia have been proposed:

To increase the present rate of sales tax on passenger cars, that is, non commercial motor vehicles, from 16.2/3 to 30%.

To raise the level of tax for commercial motor vehicles and motor cycles from 12½ to 16.2/3 %.

An increase in tax from 16.2/3% to 25% for goods of a less essential character, ranging from jewellery to gramophone records.

Apart from commercial motor vehicles and motor cycles, all those items which are now in the 12½ % category will continue to carry 12½% without increase.

The same applies to the 10% group, which includes a variety of household goods and appliances, furniture, crockery and the like, and will not bear any increased tax.

To increase the excise on beer by 2s. 8d. per gallon, which is equal to 2d. per 10-oz. glass.

To increase the customs and excise duties on spirits by 15s. 6d per gallon.

To increase the existing duties on tobacco, cigars, and cigarettes as follows: — By 4s. per lb. on manufactured tobacco, equal to a retail price increase of 3d. per oz.; in the case of cigarettes by 6s. per lb. equal to an increase in the case of a standard type of 3d. per packet of 20; and cigars by 5s. 6d. per lb.

An additional tax of 3d. per gallon on petrol.

Although an increase in personal income tax is not being proposed,

it is, however believed, that company taxation may be increased to some extent, considering the period of great prosperity these have enyoyed; therefore an increase of company tax all round by 1s. in the £ 1.—.— has been proposed.

The above proposals have been made by the Rt. Hon. R.G. Menzies, C.H., Q.C., M.P. in the Statement of 14th March, 1956 to the Parliament of the Commonwealth of Australia; in which he moreover made a number of general remarks, from which we quote:

"I indicated in my economic statement of September last, and also in my recent Policy Speech, that we would hold ourselves ready to use any fiscal measures which were needed, not only to reduce the volume of imports as a measure supplementary to direct import restrictions, but also as a corrective to inflation. What I have just announced represents our carefully considered proposals to these ends."

"It is, I think, necessary that I should point out that these measures are not depression measures; they are designed to preserve our existing prosperity by checking inflation and therefore making our prosperity more stable and more secure. It will, I hope, be widely understood that you cannot cure inflation by doing nothing. You can cure it only by endeavouring to diagnose its causes and then taking such measures as are possible to deal with those causes. It is in the light of these considerations that this special financial programme is submitted to the Parliament and to the people. Our current problems are all manageable, and no exaggerated feelings need be created by them."

"I have already explained how the Government has reached its conclusion that taxation should be employed in selected ways to provide a form of brake upon consumption and investment spending. I will in a few moments explain that we also have in prospect a cash deficit on the total operations of this financial year. What, however, are we to take as the appropriate measure of the amount of additional taxation that should now be imposed? Unless we gain additional resources the cash deficit for the current year would certainly not be less than £30,000,000. Clearly, however, this deficit arises out of conditions which, largely, are now behind us, whereas it is obvious that we must shape our financial measures as far as may be practicable to meet circumstances that lie ahead."

"May I deal briefly with the argument that increased taxes merely transfer spending power from private persons to governments, and that private persons can spend their money more prudently and effectively than governments can. I will not discuss this as a general proposition, except to say two things.

„The first is that Government expenditures on public works are, so far as we are concerned, made to satisfy public requirements which cannot, in their nature, be transferred to private citizens. No group of private citizens could be expected to provide for national defence, for such vast works as the Snowy Mountains Scheme, for postal, telegraphic and telephone capital expenditure, for the payment of interest and sinking fund on the National Debt."

"But there is another unavoidable fact now emerging, the significance of which not only to the overall Budget but also to counter-inflationary policy, cannot be overlooked. It is this. We have, for 1955-56, budgeted for a surplus of £48,700,000. In spite of some enthusiastic but unofficial estimates, made some months before the end of the financial year, our advices are that the estimate will be substantially correct. But the Revenue Budget is not all."

"We have, in addition, accepted some responsibilities in respect of the borrowing programme approved by the Loan Council; a programme which, leaving aside the Housing allocation which the Commonwealth raises for the States £8,000,000 for War Service Land Settlement and £ 3,000,000 wheat storage, is actually for State Works. The state of the loan market has been such that the Commonwealth will find itself called upon to find for the States from its own resources, a sum not less than £67,000,000. Moreover, cash has already had to be provided to meet heavy redemptions in the loan which matured last December. We are thus confronting an overall cash deficit, not a surplus. As I have already said, the cash deficit will not be less than £30,000,000 unles between now and 30th June we obtain additional resources."

"Without such additional revenue, this deficit would need to be financed by the Commonwealth Bank by the creation of new money which would add to the existing heavy inflationary pressure. Reducing or avoiding a cash deficit is therefore not only a matter of balancing the Commonwealth's accounts; it is, most importantly, a matter of avoiding the aggravation of an inflation which it is our principal economic purpose to restrain and defeat. Money out of the existing supply of purchasing power which is transferred by taxation to the Commonwealth is not inflationary. New money, created by the Central Bank to finance a deficit, is inflationary."

"Under the circumstances of the market, the Central Bank, has, until quite recently, felt called upon to support bond prices by abnormal (and, in total, huge) purchases, this again involving the creation and outlay of many millions of new money. This is inflationary."

"On top of these matters, there are two other factors which cannot be ignored".

"The first is that, with rising costs, the States Governments may encounter additional deficits this year."

"The second is that the Central Bank finances the payments made by the Wheat Board to wheatgrowers, and, for well-known reasons, carries a large cash debit on that account."

"It follows from all this that, in addition to the general inflation arising from high purchasing power, excessive demand for capital, a shortage of labour and of over-all supply, and inadequate national productivity, we have an added inflation by Central Bank deficit finance which no government can comfortably contemplate, and which fiscal measures alone can correct."

"We recognize that any increase in taxation or interest rates tends to operate against the production of goods for export, which is principally from the land. But it is quite true that if tax and interest measures are effectively designed to check inflation, the export producer will achieve a substantial benefit. We have, however, given close consideration to the special depreciation allowances for primary products which permit them to write off at 20% per annum over five years, capital expenditures incurred in respect of plant, machinery, certain structural improvements, and residential accommodation for employees, tenants, or share farmers to the extent of £ 2,000 per employee. The current legislation, which has brought about very great benefits, is due to expire on 30th June, 1956. Legislation will be promptly introduced to extend the Act for a further three years from 1st July, 1956, and to provide that the present limit in respect of expenditures incurred in the erection of residential accommodation for employees, tenants and share farmers, namely £2,000 for an employee and his family be raised to £2,750."

RECOMMENDATIONS ON THE INCOME TAX

Joint Recommendations on the Income Tax and Excise Tax Act submitted by The Canadian Bar Association and The Canadian Institute of Chartered Accountants

A. THE INCOME TAX ACT

1. Payments based on production or use. Section 6(j)

It is recommended that in connection with payments based on production or use, capital payments received on the disposal of property should be excluded from this section when the purchase price is definite and payable within a reasonable time.

2. Deemed income to shareholder. S. 8(1)

Section 8(1) provides that certain payments, benefits and loans received by a shareholder from a company shall be included in the income of the shareholder. Further, the Act does not specifically provide that the undistributed income of the company is to be reduced by the amounts included in the incomes of shareholders under s. 8(1).

Recommendations: It is recommended that this section should be amended as follows:

(a) that all amounts included in the incomes of shareholders by reason of s. 8(1) should be deemed to be dividends and consequently should be intitled to the benefit of the 20% dividend tax credit and should also be tax free in the hands of a shareholder which is a corporation;

(b) that the undistributed income on hand of the corporation should be reduced by all amounts included in the incomes of its shareholders by reason of s. 8(1).

3. Expenses of attending professional conventions. S. 11

It would appear from the recent decision in the *Griffith* case that the practice which has been followed by the Department of allowing reasonable expenses for attending conventions to be deducted in determining income is not authorized under the existing legislation.

Recommendation: It is therefore recommended that provision should be made in the Act to authorize the deduction of reasonable convention expenses.

4. Pensions for self-employed. S. 11(1)(i)

The benefits allowed in respect of pension fund contributions are now available to only those taxpayers employed by those who have established approved pension plans. It is recommended that equivalent benefits be extended to the self-employed for whom approved pension plans are not available and for employees included in plans which do not take full advantage of the benefits allowed. It is recognized that administrative difficulties may have been the chief reason for this principle not having been adopted and it is, therefore, suggested that the following plan might meet the difficulties.

Recommendations: (1) The Annuities Branch of the Department of Labour

and all life insurance companies could be invited to establish a special type of contract in respect of which they would be required to report annually to the Taxation Division.

(a) premiums received during the year; and

(b) benefits paid out during the year.

(2) Each taxpayer entering into a contract of this type could be allowed the premiums paid in as a deduction from taxable income, but only to the extent that the statutory limits had not been claimed in respect of other like contracts or in respect of approved pension plans.

(3) Each taxpayer would be taxable in respect of benefits or payments received under such contracts on the same basis as he would have been had the payments been received from an approved pension plan.

5. Deductibility of business expenses. Secs. 11(1) and 12(1) as amended

Secs. 11(1) and 12(1) as amended

Section 12(1) of the Income Tax Act provides that in computing income no deduction shall be made in respect of:

(a) an outlay or expense except to the extent that it was made or incurred by the taxpayer for the purpose of *gaining or producing income* from a property or a business of the taxpayer;

(b) an outlay, loss or replacement of capital, a payment on account of capital . . .

These provisions (and others as well) have been interpreted that many expenses necessarily incurred in carrying on the business are not now deductible in computing income for taxation purposes. Having regard to the present high level of taxation in Canada, these disallowances impose a definite hardship. We appreciate the fact that a clear definition of deductible expenses satisfactory to all taxpayers, is almost impossible to achieve and we believe that greater flexibility can be achieved without seriously impairing the revenue of the Crown and without changing the basic concepts upon which our present Act is founded.

Expenditures which, although necessarily incurred for business purposes, are held to be non-deductible in determining business profits under the Income Tax Act include:

(1) legal and other costs including professional fees in connection with the ascertainment of income tax payable on business profits (including appeals from assessments) or in connection with actions brought against the business which do not result in the acquisition of any asset of enduring value already possessed by the business;

(2) the costs of acquiring or protecting a franchise, or other long term advantage which, though having in fact a life shorter than the life of a business, is not limited to a definite period in the document which gives rise to it;

(3) the costs of obtaining a loan of capital (other than the interest paid thereon); and

(4) expenses incurred to reduce cost of sales, thereby increasing taxable income.

It is submitted that the principle should be recognized in our Income Tax Act and in the administration thereof that expenditures of the above nature made and incurred for business purposes should be deductible in the determination of business profits for taxation purposes for the year in which they are made or incurred, and that appropriate amendments should be made to the Income Tax Act.

6. Deduction of interest on fixed term debt issued at discount. S. 11(1)(c) as amended

Under s. 11(1)(c) a deduction is permitted of the amount of interest (to the extent that it is reasonable)

(1) upon borrowed money used for the purpose of earning income from a business or property and,

(2) upon money payable for property acquired for the purpose of gaining or producing income therefrom or from a business . . .

Where bonds or debentures to secure a loan are issued at a discount, i.e. for less than the amount repayable by the borrower, the borrower is allowed no deduction for the amount of the discount despite the fact that it is as much a cost of the loan as is the interest thereon.

Recommendation: It is recommended that a deduction for such charges as are mentioned above should be allowed in the cases of bonds, debentures and other fixed term debt issued on a basis whereby the same are not convertible into share capital, by amending s. 11(1)(c):

(a) to permit the deduction over the term of a loan of an annual provision for discount and/or underwriters' commission on bonds, debentures or other fixed term debt (excluding debt issued on a convertible basis) not exceeding 5% of the face amount of the security; and

(b) to permit other costs not presently allowed incidental to an issue of bonds, debentures or other fixed term debt (excluding debt issued on a convertible basis) to be deductible by annual write-off over the term of the loan.

7. Method of computing income and fiscal year. Secs. 14(1) and 139(1)(r)

The reported decisions *Ken Steeves Sales Ltd.* v. *MNR* and 282 v. *MNR* indicated that some doubt existed as to whether a method of computing income can *ever* be accepted by the Minister in view of his right to reassess. If this doubt is justified the effect of s. 14(1) would be nullified and a method of computing income could never be considered adopted and accepted so as to bind either the taxpayer or the Minister in future years. The same reasoning would prevent the adoption and acceptance of a fiscal period as in s. 139(1)(r) with respect to the fiscal period of a taxpayer so as to bind either the taxpayer or the Minister in future years.

Recommendation: It is recommended that provisions should be introduced to the effect that:

(a) a method of computing income is deemed to be accepted for the purpose of s. 14(1) if the Minister accepts such method in writing or if the method is not objected to by the Minister within two years after the receipt of the original assessment for the first year in which the taxpayer adopted that method; and

(b) a fiscal period is deemed to be accepted for the purpose of s. 139(1)(r) if the Minister accepts such fiscal period in writing or if such fiscal year is not objected to by the Minister within two years after the receipt of the original assessment for the first year in which the taxpayer adopted that fiscal period.

8. Lease-option agreements. S. 18

Under s. 18 property which is the subject of a lease-option or similar agreement is deemed to be the property of the lessee, who is therefore disentitled to deduct the rental payments in computing his income but may claim capital cost allowances based on the price of the property fixed by the agreement. This section is intended to prevent the purchaser from, in effect, writing off the real price as rent in a shorter period of time than if he were confined to the capital cost allowances permitted by the Regula-

tions. It follows that if the option price fixed by the agreement is in fact not less than the fair market value of the property at the date of the agreement, an inequity results from the allowance to the lessee of smaller annual deductions than the rent which he pays.

Recommendation: It is accordingly recommended that the provisions of s. 18 should not apply in the case of real property if the option price fixed by the agreement is not less than the fair market value of the property at the time the agreement is made.

9. Determination of value of depreciable property. S. 20(6)(g)

This section does not require that the Minister consult both the vendor and the purchaser before making a determination of an amount which could reasonably be regarded as being the consideration for disposition of depreciable property of a taxpayer.

Recommendation: It is recommended that this section be amended to introduce the procedure contemplated under s. 85E(2) with respect to the sale of inventories.

10. Dividend credits. Secs. 26 and 38

Where the income of a wife is over $250 but below $1,000, the excess of her income over $250 is, in effect, added to the husband's income through a reduction of his marital exemption. If the income of the wife consists of dividends, the 20% tax credit is lost.

Recommendation: It is recommended in such cases that the husband be allowed the 20% credit on that portion of the dividends by which the husband's taxable income is increased.

11. Charitable donations made by corporations. S. 27(1)(a)

Under s. 27(1)(a) gifts made by a person in a taxation year to recognized charities are deductible in computing the taxpayer's income to the amount of 5% of a corporation's and 10% of an individual's income for the year. In the case of a corporation or an individual carrying on business, the contribution is not recognized as an ordinary business expense, however, with the result that the amount thereof is not taken into account in computing the amount of a business loss which may be applied against the profit of the preceding year and the five succeeding years under s. 27(1)(e).

In the conditions of today charitable contributions have, in effect, become ordinary business expenses which virtually every person carrying on business finds it necessary to make as a member of the community. Moreover, corporations and businessmen frequently find it necessary to make binding commitments to contribute a certain amount annually for a number of years to charitable bodies with respect to capital campaigns for the expansion of essential community services. It may thus happen that in any year the amount of a taxpayer's charitable contributions are found at the close of that year to exceed the statutory limit and no deduction can be made for the excess in that year or in succeeding years.

Recommendation: It is accordingly recommended that the Act be amended to permit the amount of charitable donations made in any year but not deductible in that year to be deductible in any of the five succeeding years.

12. Designated surplus of related corporations. S. 28(2) et seq.

It is considered that this section and other sections which are concerned with designated surplus go so far that they impose a tax penalty on business transactions which are normal and desirable for ordinary business purposes, particularly where the corporations concerned are subject to the same final beneficial ownership.

Recommendations: (1) That the sections do not apply to changes in control where final beneficial ownership has not been changed.

(2) That a court or board of appeal be set up to review proposed transactions with a view to determining whether they should be excluded on the grounds of having legitimate and reasonable business purposes not primarily to avoid taxes.

13. Tax on rental income. S. 32(5)

Under recent amendments to the Income Tax Act rental income is no longer treated as investment income and subject to the 4% tax. It is understood, however, that rental income received by beneficiaires of an estate or shareholders of a personal corporation will be subject to this surtax.

Recommendation: It is recommended that rental income received through an estate or by shareholders of a personal corporation be exempt from surtax in the same way as rental income received directly.

14. Tax credit on taxable dividends from personal corporations. Secs. 38 and 67(7)

The tax credit to which an individual is entitled under s. 38 in respect of dividends received by him in the year from taxable corporations to the extent that such dividends were included in computing his income for the year does not extend to certain dividends received by an individual from a personal corporation in a year notwithstanding that the dividends are required to be included in computing the income of the shareholder under s. 67(7).

Recommendation: It is recommended that the Act be amended to allow a tax credit in respect of dividends received by an individual in a year from a personal corporation to the extent that such dividends are required to be included in computing his income for the year under the provisions of s. 67(7).

15. Credit for provincial corporation income taxes. S. 40: Regs. Part IV

The announced intention of s. 40 was that a company which resided or carried on business in a Province which imposed a corporate income tax should not, merely because of that circumstance, be subject to a greater total amount of taxation, apart from that arising from variations in provincial taxes, than any other company which did not reside or carry on business in the Province. The credit under s. 40(1)(b) was clearly intended to produce this equalizing result.

Because of the differences between the rules of allocation of a company's income under the Quebec Corporation Tax Act and under Part IV of the Income Tax Regulations, equalization will rarely occur in the case of a company which carries on part of its activities in Quebec and part in some other Province or Provinces. In many cases, the credit under s. 40 will fall far short of the tax imposed by Quebec and, in other cases, the credit will exceed the Quebec tax by a substantial margin. For example, in the case of a manufacturing company, the usual results will be:

(a) a tax credit that falls short of the Quebec tax if the manufacturing facilities are chiefly outside Quebec; and

(b) a tax credit that exceeds the Quebec tax if the manufacturing facilities are chiefly in Quebec.

The situation described is most undesirable and ought to be corrected.

Recommendation: It is accordingly recommended that the Government of Canada take this matter into consideration with a view to finding a basis of agreement with the Government of the Province of Quebec respecting the allocation of the income of a company to the various places where it

carries on business in order that there may be no discrimination between companies as above described.

16. Averaging incomes of farmers and fishermen. S. 42

Under s. 42 the income of a farmer or fisherman may be averaged in fiveyear blocs in accordance with the requirements set out in this section, whence it follows that if a farmer or fisherman dies before an averaging bloc is completed there is no right to average his income for the period expired to the date of his death.

Recommendation: It is accordingly recommended that s. 42 be amended to permit the income of a farmer or fisherman to be averaged for the period commencing with the taxation year immediately following his last averaging period and terminating with the taxation year in which he died.

17. Assessment of annual losses. S. 46(1)

This section provides that the Minister shall, with due dispatch, examine each return of income and assess the tax for the taxation year, etc. The Act does not require that any action shall be taken with respect tc a loss.

Since it is the duty of the Minister to examine the returns each year, it is submitted that it would be of great assistance, both to the taxpayer and to the Division, if any differences between a loss as computed by the taxpayer and as found by the Minister was reported to the taxpayer by a notice which would have the same force and effect as an assessment for all purposes of the Act.

Recommendation: It is recommended that s. 46(1) be amended accordingly.

18. Limitations on re-assessment. S. 46(4)(b)

This section imposes on the Minister in the absence of fraud a time limit of six years from the date of the original assessment, within which time he may re-assess or make additional assessments. Where the original assessment has not been made for several years after the date of filing the applicable returns, it results in the time limit on re-assessment being extended over the six year period from the date of filing.

Recommendation: It is suggested that for the purpose of s. 46(4)(b) the words "from the day of the original assessment" be deleted and replaced by the words "from the day on which the return should have been filed".

19. Certificate before distribution. S. 52(2)

As s. 116(4) provides for acceptance of security for the payment of taxes, the granting of a certificate by the Minister under s. 52(2) should be extended to cover cases where security is given.

Recommendation: It is therefore recommended that s. 52(2) be amended to read as follows:

> Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Minister certifying that taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property, have been paid or that payment thereof has been secured under s. 116(4).

20. Refunds. Secs. 57(1)(b) and 123(7)

It has been found that the 12-month period provided in s. 57(1)(b) has not been adequate. For instance, where the taxpayer is entitled to foreign tax credits but the foreign government has not completed its assessments and on the dissolution of a partnership with resulting litigation which cannot be completed within the statutory period. It is also felt that the

2 year period provided by s. 123(7) should be extended.

The equivalent section of the United Kingdom Legislation fixes the refund limitation period at six years from the end of the year in which the assessment is made. Also, under the Canadian Act the Minister may re-assess or make additional assessments within six years from the date of an original assessment.

Recommendation: It is recommended that the present 12-month limitation period with respect to refunds under s. 57(1)(b) and the present two year period under s. 123(7) be, in each case, extended to six years.

21. Special contributions by employers to superannuation funds. S. 76

Section 76 provides that where an employer makes a special payment into a pension fund or plan in respect of past services, the payment may be deducted over a period of ten years. The payment can be made either in instalments or can be prepaid. A problem arises in cases where such a special payment is prepaid and then, before the full amount of the payment has been deducted, the assets of the taxpayer are sold and the taxpayer ceases to have income against which the deductions can be claimed.

A taxpayer makes such a special payment on the understanding it will be deductible for corporate tax purposes. The Department of National Revenue favours the early funding of pension plans as a matter of policy. However, at the time such a special payment is made by a taxpayer, it cannot be forecast whether the taxpayer will discontinue business or sell its business within ten years and cease to earn income. In these circumstances it is submitted that the special payment should be deductible in full for corporate tax purposes. In a case where the purchaser of assets continues the pension plan, it is considered that the purchaser should be entitled to deduct the unamortized portion for tax purposes of the special payment because the prepayment will normally be reflected in the purchase price for the assets. However, if the purchaser is granted the deduction, the vendor should not also be allowed the deduction either for corporate tax purposes or in calculating its undistributed income on hand.

Recommendation: It is accordingly recommended that, where a taxpayer has made a special pension payment in respect of past services and sells all or substantially all the assets of its business a at time when the payment has not been fully deducted and the purchaser continues the pension plan in effect, the vendor and purchaser should be entitled to make an election which will in effect place the purchaser in the same position as the vendor had been with respect to the deduction of the unamortized balance of the special payment. An analogous provision is s. 85D relating to accounts receivable and reserves for doubtful accounts:

The amendment should provide that, if such an election is made,

(a) the purchaser will be entitled to deduct the portion of the special payment or payments not deducted by the vendor, at the same rate per year as the vendor would otherwise be entitled to deduct such payment or payments; and

(b) the vendor would not be entitled to deduct the unamortized portion of the special payment or payments either in computing its income or, if a corporation, in computing its undistributed income on hand. (See s. 82(1)(a) (ii) (C)).

It is also recommended that in a case where the taxpayer discontinues business, without sale, the whole of the then unamortized payments be made deductible from taxable income.

22. Employees profit sharing plans. S. 79

There are instances of commercial or industrial enterprises operating

different branches of the business through the medium of separate operating companies. As necessity arises through expansion and promotion it is advisable to transfer employees from one company to another. As all employees are essentially working for one concern it is thought to be much fairer to them to establish one profit sharing plan covering all the employees of all the companies.

Recommendation: It is therefore recommended that authority be given in the statutes to permit a profit sharing plan to cover the employees of all companies associated in one enterprise with a view to these companies pooling their contributions from profits in order that the employees may participate equally under the profit sharing arrangement.

23. Employees profit sharing plans. S. 79(4)

This section provides that an employer may deduct from his income an amount paid under an employees profit sharing plan during a taxation year or within 60 days thereafter. The section originally required the amount to be paid within the taxation year, but subsequently the time for payment was increased to 60 days after the end of the taxation year. This time limit, in many cases does not permit a corporation to determine what profits it has available out of which it would make a contribution to the plan.

Recommendation: Accordingly, it is recommended that s. 79(4) be amended by substituting "120 days" for " 60 days."

24. Employee benefits — meaning of word "acquired". S. 85A

The section uses the word "acquired" in two different senses. In s. 85A (1)(a) the tax liability of the employee is fixed if he has acquired shares under an agreement and the value of the shares at the time he acquired them exceeds the amount paid or to be paid. The first use of the word "acquired" obviously means taking up shares under the agreement. In the second use of the word "acquired" it could mean date of acquisition of the right (i.e. option agreement) or it could mean the date the shares were taken up and received. It is understood that the Departmental view is the latter although the former interpretation could also be adopted by a taxpayer.

Recommendation: It is recommended that the wording of this section be clarified so that neither the taxpayer nor the Department find it necessary to have a court interpret the same.

25. Revocation of election to be taxed on 1949 surplus. S. 105

Under this section when a corporate taxpayer elects to pay a tax on its 1949 undistributed income, it becomes liable for any additional tax that may be found payable on assessment.

The computation of undistributed income in many cases goes back as far as 1917 and frequently there are unknown or doubtful items, some of which may be quite material. An example might be where substantial additions are made to the undistributed income arising from surpluses transferred from predecessor companies of which the taxpayer may have had no knowledge.

Because of the possibility of material differences arising in the computation of undistributed income due to unknown factors, the difficulty of adequately determining all the facts of particular transactions after a number of years, the existence of differences of opinion on interpretation of the law, and the possibility of honest errors, a large additional amount of tax may be assessed that the taxpayer is unable or unwilling to pay.

Recommendation: It is therefore recommended that the taxpayer be given the right to revoke an election and recover tax already paid under this

section where the assessed tax exceeds the estimated tax by more than a prescribed percentage.

26. Tax-paid undistributed income. S. 105(1), (5) and (8)

Where a taxpayer fails to pay any additional tax assessed under s. 105(1) within 30 days from the day of mailing the notice of assessment, he is liable to pay the additional tax but can receive no benefit from the payment because subsecs. (5) and (8) limit the amount on which the tax is deemed to have been paid to 100/15th of the tax paid with the election or within 30 days of the date of mailing the notice of assessment.

In certain cases valid reasons may exist why the additional tax is not paid within the prescribed time.

Recommendation: It is accordingly recommended that with respect to any additional tax actually paid after 30 days from the date of mailing of the notice of assessment, the taxpaid undistributed income should be increased by an appropriate amount in respect of any such additional tax so paid.

27. Exemptions from tax on designated surplus. S. 105b

Section 105B levies a tax on designated surplus in a corporation whose control was purchased by a personal corporation subsequent to December 31, 1954. Since the entire income of a personal corporation is taxed in the shareholders' hands at personal rates, it is considered that the extra tax on designated surplus is inequitable.

In the case of a non-resident corporation purchasing a Canadian corporation, any distribution of the designated surplus is taxed at 15% and the tax is payable by the purchased corporation. It is submitted that the tax be levied only on that part of the dividend out of designated surplus which is payable to the foreign corporation.

Recommendations: It is therefore recommended:

(1) that s. 105B(1)(b) restrict the reference to s. 62 so as to exclude personal corporations; and

(2) that the 15% tax applicable under s. 105B(1)(d) be limited to the portion of the dividend to which the foreign company would be entitled.

28. Arm's length — irrebuttable presumption. S. 139(5)

Section 139(5) provides that related persons shall be deemed not to deal with each other at arm's length and that it shall be a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length. It is submitted taxpayers should not be subject to taxation in Canada on the basis of relationships which are conclusively presumed to exist but which in many cases do not in fact exist.

Recommendation: It is recommended that, in place of the irrebuttable presumption that related persons as defined by subsecs. (5a) to (5d) and (6) of s. 139 do not deal with each other at arm's length, the Act should provide that they shall be *presumed* not to deal with each other at arm's length so that the taxpayer may have the opportunity of rebutting the presumption by evidence satisfactory to a court of law.

29. Leaseholds, patents, franchises, concessions, licences. Reg. 1100(1)(b)

Under reg. 1100(1)(b) the capital cost allowance for leasehold property is computed separately in respect of each property and on a straight-line basis, although all of such leasehold property constitutes one class under class 13 of Schedule B. The same is true under reg. 1100 (1)(c) of patents, franchises, concessions and licences described in class 14 of Schedule B. Under s. 20(1) and reg. 1100 (3), however, all of a taxpayer's property of

one of the classes described is lumped together for the purpose of recapturing capital cost allowances and claiming a terminal allowance.

Recommendation: It is recommended that a taxpayer have the right to elect that each item of property described in classes 13 and 14 of Schedule B constitute a separate class so that the recapture and terminal provisions, as well as the percentage deduction provisions, *may* apply to each property separately and that, once an election is made, it be binding on the taxpayer except with the consent of the Minister.

30. Leaseholds, capital cost allowances. Reg. 1102(4) and (5)

In the case of long-term building leases, e.g. for 99 years (leases of that duration being common particularly in the Province of Newfoundland), where the consideration includes substantial amounts for buildings which were upon the land at the time the lease was executed, the leaseholder can claim capital cost allowances under regs. 1100(1)(b) and 1100(9) only at the rate of 2½% in respect of the cost of such buildings, and only the cost of buildings erected since the execution of the lease are eligible for capital cost allowances under regs. 1102(4) and (5) at the higher rates authorized for buildings on freehold land which fall under class 3 or class 6 of Schedule B. No doubt this inequity to long-term leaseholders was inadvertent.

Recommendation: It is recommended that taxpayers have the right to elect to claim capital cost allowances in respect of pre-existing structures on leasehold property at the rates authorized for property of class 3 or class 6 rather than the rate for property of class 13.

31. Notice of reassessment — appeal procedure

The original notice of assessment indicates on the reverse side in small print the procedure which must be adopted if the taxpayer wishes to object to the assessment. The notice of reassessment is more likely to give rise to an objection by the taxpayer. It does not contain such a statement but simply refers to the original notice in a note appearing at the bottom of the reverse side. Neither notice makes any easily seen reference to the objection procedure on its face.

Recommendation: It is recommended that the wording which appears on the reverse side of the original notice of assessment setting out the objection procedure should be repeated in bold print on the face of the notice of reassessment.

B. THE EXCISE TAX ACT

Secs. 50(9), 53(1), 53(3) and 61

It is recommended that s. 53(1) of the Excise Tax Act which imposes a criminal penalty for the non-payment of sales tax be repealed and that s. 53(3) imposing a criminal penalty upon officers, directors or agents of companies, s. 61 imposing a penalty for collecting excess sums from customers and s. 50(9) penalizing bona fide purchasers and lenders on securities of book debts and negotiable instruments be revised.

Source: *The Canadian Chartered Accountant*, March 1956

JEAN MICHEL †

C'est avec un profond regret que la Direction du Bureau International de Documentation Fiscale a appris le décès de M. Jean Michel, avocat à la Cour d'Appel de Paris et membre du Conseil de Protection du Bureau. A un époque où l'étude du droit fiscal international n'était que très peu développé, M. Michel a été un des premiers fiscalistes qui s'est occupé de cette nouvelle discipline du droit. Tous ceux qui ont lu ses publications ou qui ont eu le grand avantage de l'avoir connu personnellement, se rendront compte que le décès de M. Michel constitue une grave perte pour le monde fiscal. La Direction du Bureau partage la douleur et présente ses sincères condoléances à Madame Michel et aux fiscalistes français.

I

ALLOCUTION DE SA SAINTETE LE PAPE

à l'occasion du Xème Congrès de l'I.F.A.

Rome, 1956

Nous avons le plaisir de reproduire ci-après le texte de l'allocution de Sa Sainteté le Pape à l'occasion du Xème Congrès de l'International Fiscal Association qui s'est tenu à Rome les 1er - 5 octobre 1956.

Parmi les nombreux Congrès qui se déroulent à Rome cet automne celui de l'Association Internationale de Droit Financier et Fiscal, qui rassemble les spécialistes les plus distingués en cette matière, mérite un intérêt particulier et Nous sommes heureux, Messieurs, de vous dire combien Nous attachons d'importance à l'heureux déroulement de vos travaux. En 1948 déjà, vous avez tenu à Rome l'une de vos réunions et, depuis lors, votre Association n'a cessé de croître et de poursuivre avec succès ses activités pour intensifier la collaboration internationale dans l'étude des problèmes qui concernent les finances publiques et la fiscalité.

Dans le domaine si vaste du droit, cette matière possède des caractéristiques propres et requiert une compétence particulière. Dès 1936, il apparut que, si les juristes avaient déjà leur association internationale, les spécialistes du droit fiscal devaient se grouper à part. Les efforts ne furent pas ménagés pour vaincre les difficultés initiales et poser les bases de la nouvelle association, que, malheureusement, la guerre contraignit bientôt à l'inaction. Dès 1947 vous repreniez la série de vos Congrès, qui n'ont cessé de susciter, dans les milieux intéressés, une vive attention, que justifie la qualité scientifique des rapports présentés et des discussions auxquelles ils furent soumis.

Cette année, vous avez voulu aborder la question des doubles taxations internationales en matière d'impôt sur les affaires, celle de l'influence réciproque de la forme juridique, de la nature et des

dimensions des entreprises, d'une part, et de leur régime fiscal de l'autre, et enfin la garantie juridique des contribuables à l'égard du fisc. Sur chacun de ces thèmes, vous avez sollicité une relation approfondie reflétant les situations de divers pays, afin de tirer de cette comparaison des conclusions générales susceptibles de fournir des orientations utiles aux autorités nationales et aux institutions internationales.

Le travail que vous accomplissez dans vos Congrès se prolonge dans une organisation permanente, qui Nous paraît de la plus grande utilité: le Bureau international de documentation fiscale, créé en 1938 et officiellement établi en 1940 à Amsterdam, qui se propose de rassembler et de mettre à la disposition des chercheurs une documentation étendue concernant la législation fiscale et son application dans un grand nombre de pays. Il est à peine nécessaire de souligner combien un centre de ce genre peut contribuer au progrès de la science fiscale. Si l'intention première était de fournir une base indispensable au travail purement scientifique, le Bureau fut amené peu à peu à répondre à des demandes de caractère plus pratique, en conservant d'ailleurs une indépendance et une objectivité parfaites qui sont une condition essentielle de son bon fonctionnement; elles lui permettent en effet de trouver des sources d'information nombreuses et variées et de les compléter au besoin grâce à l'intervention de ses correspondants. Le Bureau publie deux périodiques, un bulletin de documentation fiscale internationale et un service de documentation, qui permettent une mise à jour constante dans un domaine sujet à de fréquentes modifications.

L'élaboration des lois fiscales dans les Etats modernes n'obéit pas toujours à des critères rationnels et précis; les nécessités du moment, les tendances politiques ou économiques des hommes au pouvoir poussent la fiscalité dans des directions divergentes. L'administration chargée d'appliquer les lois procède elle-même selon des méthodes dépourvues d'uniformité et parfois peu conformes à l'intention du législateur. Il en résulte que le système fiscal de chaque Etat et, plus encore, celui des différents Etats sur des matières analogues, comporte de notables écarts, tant dans la conception que dans le mode d'application. Non seulement on y déplore d'habitude le manque de simplicité et de cohérence, mais parfois

aussi une négligence pratique des principes justes, qui doivent inspirer toute fiscalité.

Aucun doute ne subsiste sur le devoir de chaque citoyen à supporter une part des dépenses publiques. Mais l'Etat de son côté, en tant que chargé de protéger et de promouvoir le bien commun des citoyens, a l'obligation de ne répartir entre ceux-ci que des charges nécessaires et proportionnées à leurs ressources. L'impôt ne peut donc jamais devenir pour les pouvoirs publics un moyen commode de combler le déficit provoqué par une administration imprévoyante, de favoriser une industrie ou une branche de commerce aux dépens d'une autre également utile. L'Etat s'interdira tout gaspillage des deniers publics; il préviendra les abus et les injustices de la part de ses fonctionnaires, ainsi que l'évasion de ceux qui sont légitimement frappés. Les Etats modernes tendent aujourd'hui à multiplier leurs interventions et à assurer un nombre croissant de services; ils exercent un contrôle plus étroit sur l'économie; interviennent davantage dans la protection sociale de plusieurs catégories de travailleurs; aussi leurs besoins d'argent croissent dans la mesure où se gonflent leurs administrations. Souvent des impositions trop lourdes oppriment l'initiative privée, freinent le développement de l'industrie et du commerce, découragent les bonnes volontés. Aussi, en parcourant la liste des sujets traités par vos Congrès précédents, avons-Nous vu avec plaisir que vous recommandiez d'éliminer de la législation certaines dispositions nuisibles aux intérêts véritables des particuliers et des familles, comme au progrès normal du commerce et des affaires sur le plan national et international. Vous insistez en particulier sur les avantages d'une législation plus uniforme, qui évite les doubles taxations et les entraves à la circulation internationale des capitaux et des biens. Le troisième sujet abordé cette année, la garantie juridique des contribuables à l'égard du fisc, vise à consolider les systèmes de sauvegarde, indispensables non seulement au contribuable, mais à l'Etat lui-même, qui risque, s'il néglige ces garanties, de démoraliser ses sujets et de les encourager à la fuite de l'impôt et à la fraude.

On peut dire, en bref, que les dimensions considérables des Etats actuels exigent une soigneuse mise au point de la législation fiscale, encore grevée, sur plus d'un point, d'un empirisme discutable. En outre, il est capital que les principes moraux justifiant l'impôt

apparaissent clairement tant aux gouvernants qu'aux administrés et soient effectivement appliqués. Que l'on poursuive avec des critères toujours plus sensibles et plus adéquats l'adaptation de l'impôt aux possibilités réelles de chacun. La fiscalité ne sera plus, alors, ressentie comme une charge toujours excessive et plus ou moins arbitraire, mais elle représentera, dans un Etat mieux organisé et plus apte à procurer le fonctionnement harmonieux des différentes activités de la société, un aspect humble peut-être et fort matériel, mais indispensable de la solidarité civique et de l'apport de chacun au bien de tous. La sagesse des gouvernants et l'efficacité d'une administration dévouée et intègre doit démontrer à l'évidence que le sacrifice imposé correspond à un service réel et porte ses fruits.

Votre tâche, Messieurs, est de mettre toujours mieux en lumière, à l'aide des expériences réalisées dans vos pays respectifs, les bases théoriques de l'impôt et de suggérer les applications les plus satisfaisantes. Nous sommes convaincu que vous rendez ainsi un service éminent à chacun de vos concitoyens et à l'ensemble des nations, qui profitent de vos efforts. En consolidant la structure de la société contemporaine, vous contribuez à libérer des valeurs plus hautes emprisonnées ou compromises par le malaise ou l'hostilité, qui sépare parfois l'autorité publique des citoyens et oppose les nations les unes aux autres. L'Eglise, qui ne souhaite rien tant que la stabilité intérieure des peuples et la collaboration efficace sur le plan international, se réjouit de trouver dans votre travail une aide appréciable à sa mission spirituelle et de pouvoir plus aisément adresser aux hommes l'invitation à poursuivre ensemble un idéal divin de charité et de paix.

C'est pourquoi, en implorant avec ferveur la protection du Ciel sur vous-mêmes, sur vos familles, sur vos collaborateurs, Nous vous en accordons pour gage Notre Bénédiction Apostolique.

Source: *Osservatore Romano*, 4.10.1956.

DIE NETTOUMSATZSTEUERN (VALUE-ADDED TAXES)

von J. C. L. HUISKAMP

(Fortsetzung)

Frankreich

Allgemeine Bemerkungen

Laut Art. 256 des „Code Général des Impôts" unterliegen der französischen Umsatzsteuer die in Frankreich ausgeführten Umsätze von Personen, die gewerbsmässig oder gelegentlich Waren zum Wiederverkauf ankaufen oder gewerbliche oder kaufmännische Tätigkeit ausüben. Da sie keine kommerzielle Aktivität im Sinne der französischen Umsatzsteuer ausüben, entsteht für die Landwirte und für die Freiberuflichen keine Steuerpflicht. Die Einfuhr von Waren wird besteuert.

Seit 1.7.1955 wird, wie schon im vorigen Aufsatz (*Bulletin* vol. X, S. 200) erwähnt, erhoben:

A. Taxe sur la valeur ajoutée (Mehrwertsteuer)
B. Taxe sur les prestations de services (Dienstleistungsteuer)
C. Taxe locale (Gemeindesteuer) [1]).

Im allgemeinen unterliegen der taxe sur la valeur ajoutée:

1. Produzenten

2. Grossisten (d.h. Personen, die Gegenstände, Waren u.s.w. in unverändertem Zustand zu anderen Bedingungen als zu denen des Kleinverkaufs weiterveräussern), vorbehaltlich der Entscheidungsmöglichkeit zugunsten der Gemeindeumsatzsteuer.

   Die Entscheidung für die Entrichtung der Gemeindeumsatzsteuer gilt für 2 volle Kalenderjahre und erstreckt sich auf die Gesamtheit oder nur auf einen Teil der Verkäufe.

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[1]) Daneben bestehen noch einige besondere Steuern auf bestimmte Waren. Diese treten im allgemeinen an die Stelle der genannten Steuern.

3. Einzelhändler, wenn sie:
   a) mehr als 4 Geschäftseinrichtungen für den Kleinverkauf besitzen, oder
   b) in den gleichen oder in getrennten Geschäftseinrichtungen Grosshandels- und Kleinverkäufe tätigen, falls ihre Grosshandelsverkäufe im Laufe des vorhergehenden Kalenderjahres die Hälfte ihres Gesamtumsatzes überschritten haben.[1])

> Unter Kleinverkäufen sind Verkäufe zu verstehen, die zu einem Kleinverkaufspreis getätigt werden und sich auf Mengen erstrecken, die den üblichen privaten Bedarf eines Verbrauchers nicht übersteigen. Als Kleinverkäufe gelten nicht Verkäufe von solchen Erzeugnissen, die zum Wiederverkauf bestimmt sind, ungeachtet des Umfangs der gelieferten Mengen.

4. Bauunternehmer.

Im allgemeinen unterliegen Dienstleistungen der taxe sur les prestations de services. Es gibt Ausnahmen, z.B. Umsätze, die von vergnügungssteuerpflichtigen Unternehmen oder von Personen getätigt werden, die Waren zum Verzehr an Ort und Stelle verkaufen oder möblierte Zimmer bezw. Wohnungen vermieten, ferner Dienstleistungen aller Art, die üblicherweise mit diesen Umsätzen zusammenhängen und durch dieselben Personen getätigt werden. Diese Dienstleistungen unterliegen der Gemeindeumsatzsteuer, welche Steuer im allgemeinen erhoben wird für:

1. Umsätze von Einzelhändlern,
2. Umsätze von Produzent-Einzelhändlern,

> Der Produzent-Einzelhändler ist der Kleinverkäufer von selbst hergestellten Erzeugnissen. Die taxe locale wird suppletorisch zu der taxe sur la valeur ajoutée erhoben, um eine relativ gleiche Steuerbelastung mit Waren, die den Verbraucher via den selbständigen Kleinhandel erreichen, zu bekommen. Der Kleinverkaufspreis ist aber im allgemeinen höher als der Grosshandelspreis. Würde die taxe sur la valeur ajoutée nach diesem höheren Wert bemessen, dann lastete doch noch mehr Steuer auf einem Gut beim direkten Verkauf an den Verbraucher, als im Falle der Fortwälzung via den Handel. Vom Kleinverkaufspreis wird nun für die taxe sur la valeur ajoutée ein Abzug gestattet.
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> Dieser beträgt entweder 20% des Kleinverkaufspreises oder 2/3 des durchsnittlichen Bruttogewinnsatzes aus den Verkäufen des Vorjahres. Für bestimmte Gruppen von Unternehmen bei denen ganz besondere Fabrikationsbedingungen vorliegen kann der Abzug durch Erlass des Ministerrates auf 3/4 des Brutto-

[1]) Diese Einzelhändler unterlagen früher dem erhöhten Satz der taxe sur les transactions (Satz für horizontal und vertikal integrierte Betriebe).

gewinnsatzes erhöht werden. Dies ist z.B. der Fall für Unternehmen, die als Aktivität das Schaffen originaler Kwalitätsprodukte haben.

3. Umsätze von Handwerkern (Handwerker bezahlen keine taxe sur la valeur ajoutée),
4. Von der taxe sur les prestations de services befreite Dienstleistungen,
5. Von der taxe sur la valeur ajoutée befreite Umsätze an Privatpersonen.

Der Satz der taxe locale ist im allgemeinen 2.65%. Nur für die obengenannten Dienstleistungen, die von der taxe sur les prestations de services ausgeschlossen sind, beträgt der Satz 8.5%, d.h. der Satz gültig für die taxe sur les prestations de services. Der Normalsatz der taxe sur la valeur ajoutée ist 19.5%.

Abzüge

Die Steuerpflichtigen für die „taxe sur la valeur ajoutée" können im allgemeinen von der verschuldeten Steuer vom Umsatz die „taxe sur la valeur ajoutée" und „taxe sur les prestations de services" abziehen, die auf dem Ankauf (bezw. der Einfuhr) von Waren oder Dienstleistungen, die finanziell oder nur physisch Bestandteil des verkauften Produktes bilden, lasten. (Rückgabesystem, s *Bulletin* X, S. 195).

Aber nicht abzugsfähig ist die taxe sur la valeur ajouteé auf:[1])

1. Immobilien, mit Ausnahme der Gebäude und Räume für industrielle Zwecke.

   Die Behörden gestatten Abzug für die Steuer auf Lokalitäten, die von der Arbeitsgesetzgebung verpflichtet gestellt sind, wie Garderoben, Brausen u.s.w.

2. Fahrzeuge, die der Beförderung von Personen oder Waren dienen, mit Ausnahme der Fahrzeuge, die zur innerbetrieblichen Verwendung bestimmt sind.
3. Güter, die zur Möblierung dienen, wie Stühle, Tische, Teppiche, Wandschmuck, sowie andere zum Zimmer gehörige Gegenstände, sogar wenn sie in industriellen Räumen vorkommen.

[1]) Vergl. Dekret nr. 54-692 vom 29. Juni 1954 betreffend die Festlegung der Arten von Wirtschaftsgütern, die nicht zu dem im Art. 8 (§ 1, nr. 2) des Gesetzes nr. 54-404 vom 10. April 1954 vorgesehenen Abzug berechtigen. (Journal Officiel 30. Juni 1954, (S. 6202).

> Wohl abziehbar ist die Steuer auf Machinen, wie Schreibmaschinen, Rechenmaschinen, Stempelmaschinen und auf Büro-Utensilien und Bücher, die für die technische Dokumentation des Betriebes angeschafft worden sind. [1])

Im Zusammenhang mit der Theorie der Nebensache (théorie de l'accessoire) ist auch die Steuer auf die Gegenstände, die sich auf die nicht abziehbaren Güter beziehen, nicht abziehbar. Die Behörden haben mitgeteilt (Instruktion 13.9.1954, Nr. 248/B/2/1), dass die Abzugsausnahme sich nicht nur auf die obengenannten Güter bezieht, sondern auch „sur tous produits ou objets dont l'emploi se rattache à l'usage de ces biens (peinture utilisée pour la réfection d'un local commercial, pneumatiques de camion, serrure de bibliothèque etc."

Auch die taxe sur les prestations de services auf „Ankauf" von Dienstleistungen kann in Abzug gebracht werden, jedoch mit Ausnahme der Steuer auf: [2])

1. Dienstleistungen, die sich auf die nicht abzugsfähigen Güter beziehen.
2. Beförderung von Personen, sowie im Zusammenhang damit stehende Dienstleistungen.

> Dies gilt jedoch nicht beim Vorliegen von Dauerbeförderungsverträgen oder Dauermietverträgen über Fahrzeuge, insoweit die Verträge von Industrieunternehmen zum Zwecke des Antransports ihres Personals an die Produktionsstätten abgeschlossen werden.

Selbstverständlich kann niemals für Leistungen, die persönlichen Zwecken dienen, Abzug gewährt werden, auch nicht wenn es sich um Ankäufe für das Personal des Steuerpflichtigen handelt.

Die taxe locale ist nicht abzugsfähig, auch nicht wenn es sich um die Dienstleistungen handelt, die dem erhöhten Satz von 8.5% unterliegen.

Limite des Abzuges

Es gibt einige Limite in Bezug auf die Abzüge.

Die wichtigsten sind:

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[1]) Vergl. Instruktion nr. 23 B 2/1 vom 24.1.1955 (Bulletin Officiel de l'Administration des Contributions Indirectes 1955, I, S. 16).

[2]) Vergl. Dekret nr. 55-868 vom 30. Juni 1955 betreffend Festlegung der nicht zu dem im Art. 20 des Gesetzes nr. 54-404 vom 10. April 1954 vorgesehenen Abzug der Dienstleistungsteuer berechtigenden Dienstleistungen (Journal Officiel 1.7.1955, S. 6611).

1. Bei Steuerpflichtigen, die nicht mit ihren gesamten Umsätzen der taxe sur la valeur ajoutée unterliegen, wird die abzugsfähige Steuer im Verhältnis des Gesamtumsatzes zum steuerpflichtigen Umsatz oder zum Exportumsatz von nicht im inneren Verkehr befreiten Erzeugnissen, vermindert (règle du prorata). Der Minister begründet diese Regel wie folgt:

> „Le système des deductions a pour objet essentiel d'éviter une superposition d'impôt en ce qui concerne les biens reçus grevés de la taxe sur la valeur ajoutée, qui constituent des investissements ou des frais de fabrication et dont la valeur entre pour partie dans le prix des produits soumis à la même taxe. Ce système ne se justifie donc que pour les opérations placées dans le champ d'application de cet impôt. Telle est la raison d'être de cette règle, selon laquelle, pour les biens affectés concurremment à la fabrications et à la vente de produits soumis à la taxe sur la valeur ajoutée et de produits exonérés on exclus du champ d'application de cette taxe, les sommes à déduire sont réduites au prorata de la valeur des seuls produits soumis à la même taxe ou exportés."
> Ein vollständiger Abzug „aurait pour conséquence d'altérer profondément le caractère de la taxe sur la valeur ajoutée et de diminuer très sensiblement les recettes fiscales." [1])

2. Eine Erstattung der Steuer, auch nur eines Teiles derselben, wird nicht gegeben, mit Ausnahme im Falle der Ausfuhr (règle du butoir).

Diese Regel, die im Jahre 1948 — im Moment als Frankreich zur beschränkten Netto-Umsatzsteuer überging — entstand, wurde für die integrale Netto-Umsatzsteuer ohne Aenderung übernommen. Die praktische Anwendung stösst im Zusammenhang mit dem Abzug für Investitionsgüter auf vielerlei Schwierigkeiten, umsomehr als die Anzahl der Fälle, in denen die Regel angewendet werden muss, beträchtlich grösser ist als zuvor, insbesondere da z.B. beim Produzenten-Einzelhändler die steuerbare Basis der Erhebung 80% des Verkaufspreises ist; bei Bauunternehmern beträgt dies sogar 61% (Privileg des Bauunternehmers) [2]).

Auf eine Frage im Parlament, wie diese Regel auf neue Betriebe, die grosse Anschaffungen und kleine Verkäufe haben,

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[1]) Vergl. Bulletin de Documentation Pratique des taxes sur le chiffre d'affaires et des contributions indirectes, Januar 1956, S. 34.
[2]) Vergl. für die Schwierigkeiten u.a. *La règle du butoir et la T.V.A.* in: Impôts et Sociétés, revue mensuelle d'information fiscale, Nr. 131, Dezember 1955, S. 3469 u.w.

angewandt wird, antwortete der Minister: „Une société nouvelle qui entreprend la construction et l'équipement d'une usine ne peut opérer la déduction de la T.V.A. qui a grevé cet investissement qu'au fur et à mesure de la vente des produits fabriqués, soumis à cette même taxe. Toutefois, la prescription ne saurait courir contre elle avant qu'elle ait pu, légalement, exercer son droit à deduction." [1])

Im Urstadium befreite Erzeugnisse

Für die Landwirte entsteht, da sie keine kommerzielle Aktivität im Sinne der französischen Umsatzsteuer ausüben, keine Steuerpflicht. Die Steuerpflichtigen der taxe sur la valeur ajoutée, die agrarische Produkte von den Landwirten kaufen, können keine abzugsfähige Steuer auf den Einkauffakturen nachweisen.

Verkaufs-, Kommissions- und Maklergeschäfte, sowie die Umsätze von Fassonieren mit Erzeugnissen der Landwirtschaft, der Fischerei oder der Fischzucht sind jedoch, insoweit die Erzeugnisse keine Verarbeitung oder eine leichte Bearbeitung erfahren haben und zur menschlichen Ernährung bestimmt sind, von der taxe sur la valeur ajoutée befreit. Die Befreitung ist auch auf die Einfuhr anzuwenden (Vergl. Art III G.A.T.T.). Ein besonderer niedriger Satz ist u.a. auf die Umsätze der Lebensmittelkonservenindustrie und auf Frucht- und Gemüsesäfte eingeführt worden. Vor dem 1.7.1955 wurde für diese Erzeugnisse der Landwirtschaft, die in natürlichem Zustand von der taxe sur la valeur ajoutée befreit waren, und in schwer bearbeitetem Zustand weitergeliefert werden, eine fiktiv errechnete Steuer in Abzug gebracht. Dieser besondere Abzug ist jetzt aufgehoben.

Michigan (U.S.A.)

Allgemeine Bemerkungen

Die „Business Activities Tax", die durch ein Gesetz vom 3.6.1953 eingeführt worden war, hat, wie bereits erwähnt wurde, mehr die Art einer „veredelten" Betriebseinkommensteuer als einer „veredelten" Umsatzsteuer. In der Zeit der Einführung der Steuer stritt man sich über eine Körperschaftsteuer. Die „value-added tax" war eine Kompromislösung.

[1]) Vergl. Bulletin de Documentaton Pratique 1955, nr. 8/9, S. 474.

Laut Act 150 P.A. 1953 unterliegen der „Business Activities Tax" die „adjusted receipts" aller sachlichen Aktivitäten, die im Staat Michigan mit dem Zweck des Erzielens von Gewinn oder Vorteil ausgeführt werden. Die Basis der Erhebung — die „adjusted receipts" — ist der Differenz zwischen steuerbarem Umsatz und bestimmten Abzügen (Mehrwertsystem, siehe S. 195). Der Satz ist $6^1/_2$ $^0/_{00}$.

Abzüge.

Abziehbar vom Umsatz sind:

1. Alle von der Behörde auferlegten Steuern und Gebühren mit Ausnahme der Einkommensteuer/Körperschaftsteuer.
2. Alle Beträge die für das Erwerben von Gütern, Dienstleistungen, Privilegien oder Fazilitäten zum Zweck der Ausübung einer sachlichen Aktivität bezahlt worden sind, insoweit diese Güter, Dienstleistungen u.s.w. der „Business Activities Act" unterlagen, mit Ausnahme von Beträgen die für das Erwerben von Investierungsgütern nich für den Wiederverkauf bestimmt ausgegeben worden sind.
3. Abschreibungen auf Investierungsgütern (laut der Regel der normalen Absetzung für Abnutzung des „Internal Revenu Code").
4. Bezahlte Zinsen.

Betragen diese Abzüge weniger als 50% des Umsatzes, dann hat der Steuerpflichtige das Recht den Abzug bis zu diesem Betrag zu erhöhen. Betragen die ausgezahlten Löhne und Gehälter einer Unternehmung mehr als 50% des Umsatzes, dann wird ausserdem noch ein Sonderabzug von 10% des Umsatzes bewilligt oder, wenn diese kleiner ist, die Hälfte des Betrages der die Löhne um 50% des Umsatzes übersteigt.

Diese Regeln haben zum Zweck arbeitsintensive Unternehmen die im Folge der Art Ihres Betriebes wenige Abzüge haben, zu privilegieren.

Nachdem die obengenannten Abzüge stattgefunden haben wird den Steuerpflichtigen noch eine Befreiung von £ 10.000 gewährt, wodurch erreicht wird, dass zahlreiche kleine Unternehmungen (insb. Landwirtschaften) keine Steuer zu bezahlen haben.

VORSCHLÄGE NETTO - UMSATZSTEUER

Wiederholt werden in vielen Ländern offizielle oder nicht offizielle Vorschläge zur Einführung einer Netto-Umsatzsteuer gemacht (vergl. z.B. Amerika (1921, Senator Smoot); Frankreich (1936); Japan (Shoup Mission)). Heutzutage ist es insbesondere West Deutschland das in dieser Hinsicht eine grosse Aktivität entfaltet. Verwiesen wird auf die Vorschläge zur Netto-Umsatzsteuer (Schmölders) [1]) und zur optimalen Umsatzsteuer (Zierold-Pritsch) [2]). An dieser Stelle wird nicht auf die Vorschläge eingegangen werden.

1953 kam der Wissenschaftliche Beirat beim Bundesfinanzministerium zur Schlussfolgerung, „dass bei den Anforderungen, die an die Umsatzbesteuerung gemäss der heutigen wirtschaftlichen Entwicklung in volkswirtschaftlicher, finanz- und steuerpolitischer Beziehung gestellt werden müssen, nur das System einer nicht kumulativen Allphasensteuer in Betracht kommt" [3]). Bei den Beratungen im Hinblick auf die organische Steuerreform sah man von momentaner Stellungnahme ab; in einer kürzlich erschienenen Denkschrift [4]) erwähnte das Finanzministerium einige praktische Bedenken. Inzwischen erlebte das Werk von Zierold-Pritsch seine zweite Auflage.

SCHLUSS-SCHRIFT

Mit Obigem wird nur ein globaler allgemeiner Eindruck insbesondere der Abzüge gegeben, die für die Netto-Umsatzsteuer in einer Anzahl von Ländern erlaubt werden. Von theoretischem Gesichtspunkt aus ist die „Business Activities Tax" in Michigan weniger richtig. Ueber das Netto-Umsatzsteuersystem lassen sich noch viele Bemerkungen machen. Ich darf wohl auf das Literaturverzeichnis hinweisen.

In Frankreich hat man die taxe sur la valeur ajoutée schon das Wunderkind genannt. Dies ist nicht so zu verstehen, dass die Steuer Fehlerlos sein sollte. In dieser Beziehung dürfte es angebracht sein der Worte Mc. Cullochs eingedenk zu sein:

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[1]) Vergl. G. Schmölders — *Organische Steuerreform*, 1953.
[2]) Vergl. L. Zierold-Pritsch — *Die optimale Umsatzsteuer*, 1954.
[3]) *Organische Steuerreform*. Bericht des Wissenschaftlichen Beirats beim Bundesministerium der Finanzen, 1953, S. 60.
[4]) B. T. Drucksache (2. Wahlperiode) Nr. 1924.

„Whoever expects a faultless tax to see
Expects a thing that neither is nor was
Nor ever shall be".

Dies behindert nicht, dass die gegenwärtigen Erfahrungen, national, aber auch international, mit der kumulativen Umsatzsteuer, zum Nachdenken veranlassen und die fortwährende Wahrheit der Canardsen Regel: jede alte Steuer ist gut, jede neue ist schlecht, in Zweifel ziehen lassen.

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II

SURVEYS OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

AUSTRIA *Period from July 1st until August 31st, 1956*

Income tax.

1. Bundesgesetz vom 25. Juli 1956 über die steuerliche Behandlung gewisser verrechnungspflichtiger Mietzinse. Bundesgesetzblatt (B.G.Bl.) 1956, p. 1413.
2. Bundesgesetz vom 25. Juli 1956, womit das Einkommensteuergesetz 1953 abgeändert wird (Einkommensteuernovelle 1956). B.G.Bl. 1956, p. 1414.

Duty on the acquisition of land.

3. Bundesgesetz vom 25. Juli 1956, womit das Grunderwerbsteuergesetz 1955 abgeändert wird (Grunderwerbsteuernovelle 1956). B.G.Bl. 1956, p. 1414.

Sales tax.

4. Verordnung des Bundesministeriums für Finanzen vom 29. Juni 1956, womit die Zollfreizonen von der Anwendung des Umsatzsteuergesetzes ausgenommen werden. B.G.Bl. 1956, p. 1299.
5. Verordnung des Bundesministeriums für Finanzen vom 11. Juli 1956, womit die Gegenstände bestimmt werden, für die eine Ausgleichsteuer nicht eingehoben wird (Freiliste 1). B.G.Bl. 1956, p. 1310.

BELGIUM *Period from July 1st until August 31st, 1956.*

Conventions

Accord entre la Belgique et la France visant à éviter la double imposition sur les bénéfices ou revenus de la navigation aérienne, conclu par échange de lettres, datées à Paris, le 10 décembre 1955. Moniteur Belge 1956, p. 4469.

Impôts sur le revenu

Arrêté royal du 4 août 1956 modifiant, en ce qui concerne les minima de bénéfices imposables à la taxe professionnelle dans le chef des firmes étrangères opérant en Belgique, l'arrêté royal du 22 septembre 1937 d'exécution des lois coordonnées relatives aux impôts sur les revenus, M. B. 1956, p. 5583.

Taxes assimilées au timbre

Arrêté royal du 13 juillet 1956 modifiant l'arrêté royal du 11 mars 1953 majorant le taux de la taxe de transmission à l'importation, M.B. 1956, p. 4793.

Loi du 5 juillet 1956 portant, ratification des tableaux de classement des objets assujettis à la taxe de luxe, M.B. 1956, p. 4812.

Arrêté royal du 13 juillet 1956 modifiant le Règlement général sur les taxes assimilées au timbre, M.B. 1956, p. 4813.

Arrêté royal du 2 août 1956 modifiant l'arrêté royal du 11 mars 1953 majorant le taux de la taxe de transmission à l'importation, M.B. 1956, p. 5224.

Droits d'accise

Loi du 5 juillet 1956 relative au régime fiscal du tabac, M.B. 1956, p. 4712.

Droits d'entrée

Arrêté ministériel du 3 août 1956 relatif au tarif des droits d'entrée, M.B. 1956, p. 5343.

Arrêté royal du 4 août 1956 relatif au tarif des droits d'entrée, M.B. 1956, p. 5569.

Arrêté royal du 10 août 1956 relatif au tarif des droits d'entrée, M.B. 1956, p. 5740.

Divers

20. Juin 1956. - Loi relative à la taxe de circulation sur les tracteurs autonomobiles et remorques utilisés pour certains transports de lin. M.B. 1956, p. 4468.

FRANCE *Period from July 1st until August 31st,* 1956.

Generalités

Loi no. 56-671 du 9 juillet 1956 portant report des dates d'application de certaines mesures d'ordre fiscal, J.O. 1956, p. 6392.

Décret no. 56-675 du 9 juillet 1956 portant prorogation des dispositions des décrets nos. 56-454 du 2 mai et 56-512 du 14 mai 1956, J.O. 1956, p. 6401.

Décret no. 56-672 du 31 juillet 1956 portant prorogation des dispositions des décrets no. 56-454 du 2 mai 1956 et no. 56-512 du 14 mai 1956, J.O. 1956, p. 7297.

Arrêté du 17 août 1956 portant modification de l'arrêté du 23 octobre 1953 fixant les modalités d'application de l'article 58 de la loi de finances pour l'exercice 1952. J.O. 1956, p. 7896.

Conventions

Décret no. 56-744 du 25 juillet 1956 portant approbation et publication d'une convention conclue, les 31 janvier et 20 mars 1956, entre le Gouvernement français et le gouvernement général de l'Afrique occidentale française tendant à éliminer les doubles impositions et à établir des règles d'assistance mutuelle administrative pour l'imposition des revenus de capitaux mobiliers. J.O. 1956, p. 7139.

Impôts directs

Décret no. 56-664 du 6 juillet 1956 pris en application de l'article 1er de la loi no. 56-639 du 30 juin 1956 et relatif à l'abrogation de l'article 237 du code général des impôts, J.O. 1956, p. 6305.

Décret no. 56-665 du 6 juillet 1956 pris en application de l'article 1er de la loi no. 56-639 du 30 juin 1956 et relatif à la majoration d'un décime des impôts sur les revenus et les bénéfices, J.O. 1956, p. 6305.

Droits d'enregistrement (y compris droits de donation)

Décret no. 56-663 du 6 juillet 1956 pris en application de l'article 1er de la loi no. 56-639 du 30 juin 1956 et relatif à l'institution d'une taxe spéciale sur les biens transmis à titre gratuit. J.O. 1956, p. 6304. Avec rectificatif, J.O. 1956, p. 6459.

Droits de timbre

Décret no. 56-662 du 6 juillet 1956 portant fixation du taux de divers droits de timbre et de l'impôt sur les opérations de bourse dans les bourses de valeurs. Journal Officiel (J.O.), 1956, p. 6303. Avec rectificatif, J.O. 1956, p. 6459.

Arrêté du 30 juillet 1956 portant création d'une vignette dans la série du timbre fiscal unique, J.O. 1956, p. 7221.

Décret no. 56-850 du 23 août 1956 portant règlement d'administration publique pour l'application de l'article 955 du code général des impôts soumettant au droit de timbre les bulletins no. 3 du casier judiciaire délivrés par les greffiers. J.O. 1956, p. 8197.

Taxes de consommation

Décret no. 56-666 du 6 juillet 1956 pris pour l'application de l'article 1er de la loi no. 56-639 du 30 juin 1956 et relatif aux nouveaux tarifs des surtaxes sur les apéritifs, J.O. 1956, p. 6306.

Décret no. 56-776 du 4 août 1956 portant modification de la taxe intérieure de consommation applicable à divers produits de pétrole. J.O. 1956, p. 7393.

Droits de douane

Loi no. 56-673 du 9 juillet 1956 portant ratification du décret no. 55-1717 du 30 décembre 1955 rétablissant la perception des droits de douane d'importation applicables à certaines catégories de chaussures, J.O. 1956, p. 6393.

Arrêté du 7 juillet 1956 relatif à l'admission exceptionnelle en franchise des droits et taxes d'entrée de certains matériels en provenance du Maroc ou de la Tunisie. J.O. 1956, p. 6401.

Décret no. 56-681 du 11 juillet 1956 portant modification du tarif douanier spécial de la Corse en ce qui concerne les tabacs bruts, déchets de tabac, tabacs fabriqués et extraits ou sauces de tabac (praiss) J.O. 1956, p. 6459.

Arrêté du 13 juillet 1956 pris en application de l'article 7 du code des douanes. J.O. 1956, p. 6688.

Arrêté du 28 juillet 1956 relatif aux conditions d'importation en franchise des droits de douane des produits de la pêche importés du Maroc. J.O. 1956, p. 7113.

Arrêté du 25 juillet 1956 portant fixation du contingent et des conditions d'importation en exonération du droit de douane d'importation des linters de coton en feuilles (ex. no. 55-02 B b du tarif douanier), J.O. 1956, p. 7161.

Arrêté du 25 juillet 1956 portant fixation du contingent et des conditions d'importation, au bénéfice d'un droit de douane au taux réduit, du fil machine d'un diamètre compris entre 4,5 mm et 5,5 mm et ayant une teneur en carbone comprise entre 0,62 p. 100 et 0,74 p. 100 (ex no. 73-15 A IV b 1 du tarif douanier) J.O. 1956, p. 7162.

Décret no. 56-763 du 2 août 1956 portant suspension provisoire du droit de douane d'importation applicable aux cibles remorquées par avion, J.O. 1956, p. 7297.

Décret no. 56-764 du 2 août 1956 portant modification du tarif des droits de douane d'importation. J.O. 1956, p. 7298.

Arrêté du 2 août 1956 portant fixation du contingent et des conditions d'importation de certains produits au bénéfice d'un droit de douane réduit. J.O. 1956, p. 7299.

Arrêté du 1er août 1956 portant application de l'article 215 du code des douanes, J.O. 1956, p. 7615.

Arrêté du 1er août 1956 instituant des restrictions de tonnage à l'importation et à l'exportation en application de l'article 24 du code des douanes. J.O. 1956, p. 7616.

Arrêté du 16 août 1956 relatif à la taxe spéciale temporaire de compensation. J.O. 1956, p. 8091.

Décret no. 56-844 du 25 août 1956 portant modification du tarif des droits de douane d'importation applicable à certaines marchandises. J.O. 1956, p. 8168. Avec rectificatif, J.O. 1956, p. 8198.

Décret no. 56-845 du 25 août 1956 portant suspension du droit de douane

d'importation applicable à certaines variétés de fontes. J.O. 1956, p. 8169. Avec rectificatif, J.O. 1956, p. 8198.

Décret no. 56-846 du 25 août 1956 portant modification du tarif des droits de douane d'importation applicable à certains engrais minéraux ou chimiques azotés. J.O. 1956, p. 8170.

Décret no. 56-865 du 27 août 1956 portant incorporation dans le code des douanes de textes législatifs qui ont modifié des dispositions de ce code sans s'y référer expressément. J.O. 1956, p. 8328. Avec rectificatif J.O. 1956, p. 8492.

Divers

Décret no. 56-667 du 4 juillet 1956 portant modification du mode de liquidation de la taxe spéciale sur les conventions d'assurances, J.O. 1956, p. 6347.

Arrêté du 10 juillet 1956 portant extension des cas où les extraits de rôles et certificats de non-imposition sont délivrés gratuitement par les percepteurs. J.O. 1956, p. 6688.

GERMANY

Period from July 1st until August 31st., 1956.

Conventions

Gesetz vom 23. Juli 1956 zu den am 22. März 1956 in Bonn unterzeichneten drei Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Schweden über deutsche Vermögenswerte in Schweden, über die Wiederherstellung gewerblicher Schutzrechte und zum deutschen *Lastenausgleich*. Bundesgesetzblatt, (B.G.Bl.) II, 1956, S. 811.

Gesetz vom 28. Juli 1956 zu dem dritten Protokoll vom 15. Juli 1955 über zusätzliche Zugeständnisse zum Allgemeinen Zoll- und Handelsabkommen (Bundesrepublik Deutschland und Dänemark) B.G. Bl. II, 1956, S. 855.

Gesetz vom 28. Juli 1956 zu dem Vierten Protokoll vom 15. Juli 1955 über zusätzliche Zugeständnisse zum Allgemeinen Zoll- und Handelsabkommen (Bundesrepublik Deutschland und Norwegen). B.G.Bl. II, 1956. S. 865.

Gesetz vom 28. Juli 1956 zu dem Fünften Protokoll vom 15. Juli 1955 über zusätzliche Zugeständnisse zum Allgemeinen Zoll- und Handelsabkommen (Bundesrepublik Deutschland und Schweden). B.G.Bl. II, 1956, S. 873.

Bekanntmachung vom 4. August 1956 über das Inkrafttreten der Abkommen zwischen der Bundesrepublik Deutschland und dem Königreich Schweden über deutsche Vermögenswerte in Schweden, über die Wiederherstellung gewerblicher Schutzrechte und zum deutschen *Lastenausgleich*. B.G.Bl. II, 1956, S. 898.

Customs

Verordnung zum 25. Juni 1956 über die Zollbehandlung von Nahrungs- und Genussmitteln im internationalen Fluglinienverkehr. B.G.Bl. I., 1956, S. 647.

Zehnte Verordnung vom 21. Juli 1956 über Zolltarifänderungen zur Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl. B.G.Bl. I, 1956, S. 671.

Verordnung vom 21. Juli 1956 zur Aenderung der Allgemeinen Zollordnung. B.G.Bl. I, 1956, S. 675.

Verordnung vom 21. Juli 1956 über das Zollverfahren im internationalen Strassengüterverkehr. B.G.Bl. I, 1956, S. 689.

Achte Verordnung vom 31. Juli 1956 über Zolltarifänderungen zur Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl. B.G.Bl. I, S. 722.

Gesetz vom 9. August 1956 zur Aenderung des Zollgesetzes, des Zoll-

tarifgesetzes und des Mineralölsteuergesetzes (Drittes Zolländerungsgesetz). B.G.Bl. I, 1956, S. 735.

Sechste Verordnung vom 15. August 1956 über Erläuterungen zum Zolltarif (Kunststoffe und Kunststoffwaren). B.G.Bl. I, 1956, S. 745.

Elfte Verordnung vom 29. August 1956 über Zolltarifänderungen zur Durchführung des Gemeinsamen Marktes der Europäischen Gemeinschaft für Kohle und Stahl. B.G.Bl. I, 1956, S. 759.

NETHERLANDS *Period from July 1st until August 31st, 1956.*

Direct Taxes

Amendment of the eighth supplementary decree on corporation income tax and of the decree on exemptions from corporation income tax. Ned. Stcrt. August 13th, 1956, nr. 156.

Act concerning the taxation of government companies. Stbl. Nr. 356, June 28th, 1956.

Succession Duties

Succession duty and gift tax act. Stbl. Nr. 362, June 28th, 1956.

Decree concerning the coming into effect of the succession duty and gift tax act. Stbl. Nr. 406, July 12th, 1956.

Implementing decree on the succession duty and gift tax act, Stbl. nr. 407, July 20th, 1956.

Stamp duty

Regulation concerning exemption from stamp duty. Stbl. no. 430, July 24th, 1956.

Sales tax

Regulation concerning exemption from sales tax of certain kinds of education. Stbl. nr. 425, July 30th, 1956.

Decree amending the Royal decree of December 21st, 1954, containing a list of goods for which the sales tax at the import is increased. Stbl. nr. 447, August 20th, 1956.

Amending ordinance concerning the regulation on refund of sales tax. Nederl. Staatscourant July 5th, 1956, nr. 129.

Excise taxes

Executory decision of section 5, § 3, of the tobacco act. Ned. Stcrt., August 13th, 1956, nr. 156.

Customs

Decree concerning provisionary enactment of some amendments in the tariff of import duties. Stbl. nr. 450, August 28th, 1956.

RECENT DEVELOPMENTS IN FINNISH TAXATION

Taxes on enterprises in Finland [1])

The following taxes are imposed on enterprises in Finland:

A. Corporations (limited companies, co-operative societies etc.) pay 1) State income tax (e.g. 1951-1953 32% and 1954-1955 38% of income), 2) State capital tax (1951-1953 8 0/00 and 1954/1955 10 0/00 of the property), 3) local income tax (on an average about 11%), 4) church tax (about 1%).

B. Sole traders and partnerships pay taxes as corporations in clause A except that their State income and capital taxes are paid according to a progressive scale.

In addition, each employer has to pay for old-age pension and child subsidy purposes a fee amounting to 5% of the salary and wage bill.

When selling or importing, a sales tax amounting to 25% of the value of the goods is levied on the producer or importer. A considerable amount of goods, however, is exempt from this tax, e.g. raw materials, food, fuel, medicines, clothes, footwear, literature, agricultural machinery, vessels exceeding 10 reg. ton etc. On the other hand tax is levied on industrial machinery.

In addition, there are customs duties, excise, stamp duties etc.

Amendments in spring 1956.

With the failure of negotiations between the Employers' Confederation and the Trade Union about how to compensate the rise in the cost of living, a General Strike broke out in Finland on 1st March, 1956. The three weeks' strike ended in a compromise the effect of which was a general 10% rise in wages and salaries. To facilitate reaching agreement between the organisations mentioned above, the Government promised to compensate in part the extra production costs by certain alleviations in tax legislation. The following amendments were made in spring 1956:

1) Published by courtesy of the Federation of Finnish Industries.

1) The Government promised that *State income tax* would not exceed 32% and *capital tax* 8 o/oo.

2) The employers' *contribution to the old-age pension and child subsidy* purposes was lowered from 5% to 4% of the wage bill.

3) *The allowance for depreciation* (write-off) on fixed assets was raised. Earlier the depreciation allowance was granted on a flat rate based on the original cost of the asset. The maximum rates were: on machines 8%, office equipment and furnishings 10%, equipment and tools 15%, cars 20%, lorries and coaches 25%. In the year of acquisition only half these rates were permitted.

Now, a reducing value method has been adopted. An allowance of 20% of the original cost is permitted in the year of acquisition. In the following years further allowances of 20% of the remaining book value are applied. On reaching the point where the reducing value allowance would be less than the former straight line allowance, the latter may be applied again.

Here is an example: original cost 100, straight line rate 10%.

1st year allowance	20	remaining 80
2nd	16	64
3rd	12.8	51.4
4th	10.2	41
5th	10	31
6th	10	21
7th	10	11
8th	10	1
9th	1	—

On buildings, only the earlier straight line method may be applied.

4) *The double tax burden on the profits of limited companies* was considerably eased. If the income of the tax payer includes taxable dividends from limited companies his tax is reduced by an amount equal to 15% of his dividend income.

Example: taxable income 1.000.000 including dividends amounting to 100,000:

Income tax	125,000
less 15% of dividends	15,000
final income tax	110,000

5) A *stamp duty* of 2% was levied *on the capital* of limited com-

panies when founding a company or increasing the capital stock. To encourage the acquisition of new capital stock this duty has been abolished for three years.

6) To acquire more funds for the Budget a sales tax has been reintroduced on certain textile products and stamp duties and other *indirect taxes* have in general been *increased.*

To further the production and export of the *shipbuilding and metal industries, incentives* have been arranged in form of tax allowances. If an enterprise in this category gives credit to the buyer for more than 12 months, the interest derived from the credit is tax-free income to the enterprise and the amount of the credit is not included in his taxable property. These incentives had no connection with the agreement reached after the general strike.

Helsinki, July 1956.

TAX REGULATIONS IN NORWAY[1])

This survey deals only with direct taxation, i.e. taxes levied on income and capital. For the sake of convenience it should be mentioned that there is also a special tax payable to the County as well as real property tax payable to the municipality.

Further there are also a number of indirect taxes, e.g. a general purchase tax amounting to 10% of the sales price of the goods, as well as various kind of fairly high special charges on alcohol, chocolate and many other goods considered to be in the nature of luxuries.

1. *The basis of assessment of taxable income.*

The legal provisions concerned are to be found mainly in The Income and Capital Tax Acts of August 18th, 1911.

According to the provisions of the Acts, deductions from gross income can be made in respect of "interest on the taxpayer's debt, any expenditures understood to have been incurred for the purpose of earning, securing, or maintaining the income". Some of these provisions will be described below.

a. *Provisions for depreciation.*

The general rule is that provision for depreciation can be made at a regular annual rate amounting to a certain percentage of the historical cost of machines, buildings used for business purposes, and other capital equipment — proportional depreciation. (For workmen's dwellings depreciation is only admitted in exceptional cases). The percentage allowed for buildings is 2 in most cases, and for machines usually about 10. An initial allowance — the so-called extraordinary depreciation of excessive prices — is admitted on capital equipment acquired *before October 20th*, 1950. Such extraordinary depreciation can be made for an amount equivalent to the difference between the historical cost and the

[1]) Published by courtesy of the Norwegian Federation of Industries.

cost of the capital item concerned at the end of 1939 with the addition of 50% thereof. When the annual deductions from taxable income as a result hereof do not exceed 50% of the income, the excessive price can be written off over a period from 1 to 4 years. If the excessive price has not been written off in the course of 5 years, the remaining amount is transferred to the account for ordinary depreciation during the remaining life of the capital item.

b. *Depreciation not provided for. — Carry-forward of deficits.*

If no provision for depreciation is made in one year, it is not permitted to make up for this by providing twice the amount in the next year or in any subsequent year during the period of depreciation. The question whether the period of depreciation can be extended, so as to ensure that the full amount is finally deducted, is unsettled and must probably be answered in the negative. However, when capital equipment is sold or scrapped the written-down cost price can be deducted when computing capital gains or losses, to the effect that the full amount paid orginally is deducted from the taxable income.

There are rules providing that a deficit occuring in one year may be deducted from taxable income during the next two years.

c. *Valuation of inventories.*

According to the tax laws, the value of the stocks of raw materials and finished products at the end of the year, as compared with the existing stocks at the beginning of the year, shall be taken into account in determining the taxable income. For this purpose the value of inventories shall be assessed without including the profit margin to be anticipated. In practice the lowest basis of valuation is usually accepted, e.g. the goods can be assessed at the historical purchase price even if the market price has gone up since the purchase was made. Frequently a considerably more careful valuation is accepted, particularly in trades in which large price fluctuations occur and the turnover of stocks is slow.

d. *Deduction for investment fund.*

According to an Act of May 31st 1956 up to 20% of the income can be deducted as allocation to Investment Funds before the

taxable income is computed. An amount corresponding to the amount deducted from the taxable income must be deposited with a bank and cannot be used by the taxpayer during the following three years. After that time the money can be spent for investment in machinery and plant, etc. the price of which must be written down by an amount corresponding to only 85% of the money taken from the investment fund. If the taxpayer prefers to write down other than machinery and plant bought for released investment funds, he is free to do so, provided they have been acquired before January 1st, 1955. The cost of the machinery and plant must then be reduced by 85% of the released amount.

e. *Deduction for taxes and other expenses.*

No deduction can be made for taxes on capital or income, i.e. taxes paid or incurred cannot be deducted in the calculation of taxable income.

Taxable income in Norway also includes several other expenses which are items of cost from a business point of view. Thus, membership fees payable to associations cannot be deducted from taxable income.

2. *The basis of assessment of taxable capital.*

According to the tax laws of 1911, the capital is assessed "at the amount which, according to current prices of January 1st of the year in which the assessment is made, represents the true value of the moveable and immoveable property of the taxpayer and his outstanding claims, after the deduction of outstanding debts".

3 *Tax rates and types of taxes.*

Capital in the form of shares and dividends are not included for the purpose of municipal tax assessment.

Personal taxpayers are entitled to a family deduction from taxable income depending on the number of persons supported by him. For this purpose, taxpayers are divided into classes, viz. Class 1 for single persons, Class 2 for married couples, Class 3 for married couples with one child, etc. (joint-stock companies are in Class 0).

Joint-stock companies pay additional tax to the state, viz. a

tax on undivided profits (generally known as "tax on provisions for non-statutory reserves").

Contributions to the public old-age pension fund and the war pension fund are assessed on the taxable income as determined for state tax purposes, or — in the case of joint-stock companies — for the purpose of tax on undivided profits.

The following types of taxes are levied: (the rates are those which apply for the income year 1955, and as far as municipal taxes are concerned, the rates and deductions are those which apply in Oslo).

20 Norwegian kroner = £ 1.

A. *Personal taxpayers.*

Types of taxes *on income:*

a. *State tax* on the first	£ 600	10%
,, ,, ,, ,, next	£ 400	15%
,, ,, ,, ,, ,,	£ 500	25%
,, ,, ,, ,, ,,	£ 500	35%
,, ,, ,, ,, ,,	£1.500	45%
,, ,, ,, any amount in excess hereof		55%

Taxpayers are allowed a fixed deduction from the amount of *tax* so determined according to the following scale:

Class:	0	1	2	3	4	5
Deduction	£5	20	40	50	65	85

b. The *ordinary municipal tax* on income amounts to 16½% of taxable income, i.e. after allowing for family deduction according to the following scale:

Class:	0	1	2	3	4	5
Deduction:	£0	65	115	175	245	325

c. *Additional municipal tax* on large income. The taxable income is determined after allowing for the same family deductions as mentioned under sub-section b. for the ordinary municipal income-tax. The additional tax is calculated according to the following rates:

on the first £ 1.000	0%
„ „ next £ 1.000	3%
„ „ „ £ 1.500	4%
on any amounts in excess hereof	5%

d. The contribution to *the public old-age pension fund* and to the war pension fund amounts to 2.2% of income as determined for state tax purposes.

Taxes *on capital:*

e. *State tax on capital.* The following amounts, being tax-free, are deducted in determining the taxable capital:

In class 1	£ 750
In class 2 and higher classes	£ 1.250

From the capital in excess of the tax-free amount, capital tax is payable according to the following scale:

on the first £ 1.000	2.5‰
„ „ next £ 1.500	5.–‰
„ „ „ £ 2.500	7.5‰
„ „ „ £ 5.000	10.–‰
„ „ „ £ 5.000	12.5‰
„ „ „ £10.000	15.–‰
on any amount in excess hereof	17.5‰

f. *Municipal tax on capital.* The rate is 4‰. (No capital tax is charged on amounts below £250, but no tax-free deduction is made if the amount is higher than £250.)

A subsidiary rule entitles the taxpayer to a reduction of the tax thus calculated if total taxes at any level of his assessable income exceed 80% of the income.

B. *Joint-stock companies.*

Taxes *on income:*

To the *state:*

a. *Company tax:* 30% of the company's income (dividends from other Norwegian companies not included).

b. *Capital accumulation tax:* 8% of the total income less any

amount distributed as dividends or allocated to the statutory reserve fund.

c. *Contribution to public old-age and war pension schemes:* 2.2% of the same income as under b.

Municipal income taxes:

d. *Ordinary income-tax* at the same rates as under section A, subsection b. above (joint-stock companies coming in class o).

e. *Additional municipal tax* on large incomes. The same rates as under section A, sub-section c. above.

Taxes *on capital:*

f. To the *state:* 2‰.

g. To the *municipality:* 4‰ (see under section A, sub-section f. above.)

4. *Taxation of dividends and royalties paid to foreign shareholders. Dividends received from abroad.*

a. *Dividends paid to foreign shareholders.*

Dividends paid to foreign shareholders are taxed at a rate of 25%. The tax is withheld by the company and paid in by it (taxation at source). Various agreements concluded with other states for the avoidance of international double taxation contain provisions restricting Norway's right to tax such dividends. In other cases relief is given by provisions as to tax credit in the agreements.

b. *Royalties paid to foreign receivers.*

The rule is that royalties represent deductible expenses.

If the royalty paid to a foreign holder of patents etc. exceeds a reasonable payment in consideration of the value of the rights granted to the licensee, the latter is allowed to deduct in his taxable income only that part of the royalty which is considered to be reasonable. This rule is even incorporated in various agreements with other states.

c. *Dividends received from abroad.*

For persons as well as for companies dividends received from abroad are included in the taxable income for the computation

of *all* state and municipal taxes (in contradistinction to what is the case with dividends from Norwegian private companies, see 3 above). If the dividends in lack of any agreement with the state where the company is domiciled are also taxed abroad, these foreign taxes are deducted as expenses from the taxable income of the Norwegian shareholder.

5. *The burden of taxation on Norwegian companies.*

We shall consider the taxes paid by a Norwegian *joint-stock company*, since the overwhelming part of Norwegian industry and other business activities are carried on under this type of organisation, the business with unlimited personal liability (which pays taxes in the same way as personal taxpayers) is less widespread.

The following taxes are payable on income:

Company tax to the state	30 %
Capital accumulation tax	8 %
Old-age pension and war pension contributions	2.2%
Municipal tax (Oslo)	16.5%
Additional municipal tax on large incomes (the maximum marginal rate on incomes in excess of £3,500)	5 %
Total	61.7%

This figure is somewhat too high, however, since the undivided profits tax and the old-age and war pension contributions are not assessed on the whole income, but only on such part of the income as is not distributed as dividends to the shareholders. In view of the heavy taxes and the restrictions on dividend payments, the reduction to be made on this account will not be large.

Capital taxes to the state and the municipality aggregate 6‰. Accordingly, if a company has a capital of £50,000 and a taxable income of £5,000, the capital taxes will amount to £300, i.e. 6% of the income. As a result, the total income and capital taxes payable by the company to the state and to the municipality will be about 67.7% of the income.

Having regard to the reduction just mentioned with regard to

the undivided profits tax and the old-age and war pension contributions, and bearing in mind that the additional municipal tax on large incomes has been calculated at the maximum marginal rate, the overall tax burden of Norwegian companies can be estimated at about 2/3 of taxable income.

Oslo, June 1956.

EGYPTE

IMPOTS SUR LES REVENUS

Impôt au profit des Conseils municipaux et provinciaux. Sociétés d'aviation étrangères. Exemptions. Lois n. 169 de 1952 et n. 588 de 1953.

Instructions explicatives n. 4 de 1956.

Les impôts édictés aux profits des Conseils Municipaux et provinciaux sont des impôts locaux. Ceux-ci sont de deux sortes: certains sont „principaux" en ce sens qu'ils ne dépendent d'aucun autre impôt édicté par l' Etat; certains autres sont des impôts „additionnels" appelés abusivement „taxes additionnelles". Cette dernière catégorie n'est pas autre chose qu'un pourcentage ajouté à un des impôts par l'autorité locale.

En se référant à la loi n. 155 de 1950 établissant un impôt additionnel à l'impôt sur les bénéfices commerciaux et industriels, au profit des Conseils municipaux et de village, — loi toujours en vigueur même après la promulgation de la loi n. 66 de 1955 sur l'organisation des Conseils municipaux — il résulte que l'article 1er édicte: *„Il est établi au profit des Conseils municipaux et de village un impôt additionnel annuel au taux de* 10% *de l'impôt sur les bénéfices commerciaux et industriels prévu par le Livre II de la loi n.* 14 *de* 1939 *établissant un impôt sur les revenus des capitaux mobiliers, sur les bénéfices commerciaux et industriels et sur le revenu du travail".*

Nous constatons qu'il s'agit là d'un impôt additionnel local et non d'un impôt principal.

Si cet impôt est additionnel, il doit être régi par les mêmes règles que l'impôt principal. Ce sens a été répété par l'art. 2 de la dite loi n. 155 de 1950 en édictant que *„l'impôt additionnel prévu à l'article 1er sera perçu en même temps que l'impôt principal"*, et que les dis-

positions de la loi n. 14 de 1939, „*les modifications y apportées et les arrêtés pris pour son exécution seront également applicables à cet impôt*".

Etant donné que la loi n. 169 de 1952, modifiée par la loi n. 588 de 1953 autorise l'exemption de l'impôt sur les bénéfices commerciaux et industriels dans les conditions y prevues, cette exemption comprend par voie d'accessoire l'impôt additionnel. En effet, la loi en question a créé un cas d'exemption en faveur d'une catégorie de contribuables. Elle doit, en conséquence, être considérée comme complétant les dispositions de la loi n. 14 de 1939 et comme formant avec celle-ci un tout. Le sort de l'impôt additionnel est celui de l'impôt principal prévu par la loi en question.

On peut dire également que l'impôt principal (auquel viendrait s'ajouter l'impôt additionnel) devient néant à la suite de l'exemption. Or, tout ce qui viendrait s'ajouter au néant ne produit que le néant.

Inutile d'ajouter que tout cela ne s'applique qu'au cas de réciprocité par rapport aux Sociétés Egyptiennes.

(Avis du Conseil d'Etat, Section d'Avis et de Législation du Ministère des Finances et de l'Economie. No 183/52/2319 en date du 16 octobre 1955).

Le 28 février 1956.

Source: *La Gazette Fiscale* No. 67.

MISCELLANEOUS — FAITS DIVERS

Australia

1956-1957 *Company Rates of Tax*

Since the publication of the articles of Messrs. GUNN and BERG in Nr. 3 of the Bulletin's present volume, the rates of tax on companies have been raised (see pages 129, 140 and 141). The following is an extract from *Current Taxation*, published by Butterworth & Co. (Australia) Ltd., Editors J. A. L. Gunn, C. B. E., and R. E. O'Neill, Vol. 8 No. 12.

1956-1957 Company Rates of Tax

The *Income Tax and Social Services Contribution* (Companies) *Act*, 1956[1]) fixes the rates of tax payable by companies for the financial year 1956-1957 in respect of income derived during year of income ending 30 June, 1956, or substituted accounting period. The rates are one shilling higher all round than the rates payable in respect of income derived during the preceding year of income. The new rates may be summarised:

PUBLIC COMPANIES.

Resident Companies

On the first £5000 of taxable income, the rate is 7s. in the £.
On the excess of the taxable income over £5000, the rate is 8s. in the £.

Non-Resident Companies

(a) On so much of the taxable income consisting of dividends as does not exceed £5000, the rate is 6s. in the £.
(b) On so much of the taxable income not consisting of dividends as does not exceed the amount (if any) by which the taxable income consisting of dividends is less than £5000, the rate is 7s. in the £.
(c) On the part of the taxable income to which neither (a) nor (b) applies the rate is 8s. in the £.

PRIVATE COMPANIES (whether resident or non-resident).

On the first £5000 of taxable income the rate is 5s. in the £.
On the excess of the taxable income over £5000, the rate is 7s. in the £.
The rate of tax payable on undistributed profits under Division 7 of Part III of the Assessment Act remains at 10s. in the £.

CO-OPERATIVE AND NON-PROFIT COMPANIES.

Co-operative companies as defined in Division 9 of the Assessment Act and non-profit companies as defined in the Rates Act are liable for tax as follows:
On the first £5000 of taxable income 6s. in the £.
On the excess of taxable income over £5000 8s. in the £.
If the taxable income of a non-profit company does not exceed £104, it is not liable for any tax; where the taxable income exceeds £104 but does not exceed £228, the maximum tax payable by it is eleven-twentieths of the amount by which the taxable income exceeds £104.

[1]) Assented to 6th June, 1956.

LIFE ASSURANCE COMPANIES.

The mutual income of life assurance companies and the taxable income of mutual life assurance companies is taxed at the rate of 5s. on the first £5000 and 7s. on the excess.

INTEREST PAID BY COMPANY TO NON-RESIDENT.

For every £1 of interest in respect of which a company is liable under s. 125 (1) of the Assessment Act, the rate is 8s. in the £.

Costa Rica

Special Tax on imported footwear.

Decree no. 2039, dated July 27, published in the Costa Rican Gaceta Oficial on August 8 and effective from that date, establishes a special tax of Colones 100 (C15.8 = £1 sterling) on each pair of shoes, boots, etc., imported into Costa Rica. Footwear for special purposes, such as that used by miners and firemen, for work in milk plants and orthopaedic footwear, will be exempted from the tax, which is additional to ordinary customs duties (which are unchanged), provided similar types are not manufactured in Costa Rica.

The tax will also apply to footwear imported unfinished (cuts) but not to materials for use in the footwear industry.

Source: *Board of Trade Journal* 171 (1956) no. 3108.

Denmark

Changes in internal taxes.

The following changes have been made in the Danish Consumption Taxes

Wines. With effect from June 8, 1956, the tax on wines, which was 43% of the wholesale price, becomes a fixed charge per litre. Spirits. With effect from June 8, 1956, the tax on spirits, which was Kr. 15.30 per litre has been reduced to Kr. 13.75 per litre and that which was Kr. 30.60 per litre 100% proof has been reduced to Kr. 27.50 per litre 100% proof. The Turnover taxes on spirits remain unchanged.

Chocolate and sugar confectionery. With effect from June 20, 1956, the tax on chocolate and sugar confectionery is reduced from Kr. 2 per kilogramme plus 40% of the taxable value to Kr. 1.50 per kilogramme plus 40% of the taxable value.

Perfumes and toilet preparations. With effect from June 8, 1956, the Consumption tax on perfumes and toilet preparations intended for retail sale has been raised from 25% to 30%. The tax on goods not intended for retail sale, which was 331/3% of the taxable value plus 10% of the total, has now been made 43% of the taxable value.

Source: *Board of Trade Journal* 171 (1956) no. 3108.

Denmark

Surtax on excess income reduced

Law Nr. 181 dated June 23, 1956 provides for a reduction in the rates of income tax on excess income, a special feature of the Danish Income Tax. If the income in 1957/58 increases as compared with 1956/57, the taxpayer is allowed a deduction of 30% of the increase.

This relief does not apply to non-residents.

Source: *Schnellberichte zur Finanzwirtschaft des Auslandes*, Bundesministerium der Finanzen,. Bonn.

Egypt

Additional defence taxes.

Additional Defence Taxes have been established by Law Nr. 277 of 1956. Further particulars will be given in the next issue of the *Bulletin.*

Sweden

Reduction of Income Tax

The lower rates of Income Tax, established by the Laws of May 18 and June 7, 1956, will apply as from January 1, 1957.

Source: *Svensk Författningssamling* 1956, Nrs. 243 and 331.

Coupon Tax Increased

The rate of Coupon Tax is increased as per January 1, 1957 from 20 to 30 per cent. Special rules have been issued in respect of residents of countries with which Sweden has concluded a double taxation convention, such as: Norway, the United Kingdom, Finland, Canada, the Netherlands, Belgium and certain British territories.

Source: *Svensk Skattetidning,* 1956, Nrs. 104-112.

Turkey

Transaction tax to be revised.

A new Law no. 6802 providing for a "tax on expenditure" to replace the existing transaction and consumption taxes, was published in the Turkish Official Gazette on July 23.

The object of the Law, the main provisions of which will not come into force until March 1, 1957, is to simplify the present system of levying "turnover taxes" and to impose a single tax, of varying rates.

The "tax on expenditure" will abolish these different taxes and in their place introduce a basic tax on manufactured goods, levied at the factory, or on imported goods, levied at the port of entry, and a tax on services (banks, insurance companies, transport, and post, telephone and telegraph services).

The new tax will be levied on only those goods specifically mentioned in the lists appended to the text of the Law.

Table I lists the rates of tax to be levied on primary products, including cement and other refractory products, minerals, rubber, plastics, furs, bone articles, precious stones, paper, glass, textiles, electricity (with some exceptions) and gas.

Table II refers to manufactured articles including matches, vehicles, watches, sound reproducing and photographic equipment, earthenware and ornaments.

Table III refers to coffee, cocoa, glucose and drinks not produced by the State Monopoly.

Table IV refers to imported goods where the rates of tax are different from the rates levied on local products.

Source: *Board of Trade Journal* 171 (1956) no. 3108.

IV

REVIEWS — COMPTES RENDUS

UNITED NATIONS, Department of Economic and Social Affairs: *Economic developments in Africa* 1954-1955. New York, 1956, 100 pp.

The rate of expansion of African production was higher than that for the world as a whole. Mineral production was at a higher level in 1954 than in 1953, mainly due to the higher export demand arising from increased industrial activities in Europe and North America. African exports, which constitute about 6% of world total, expanded at a greater rate than world exports in 1954, namely 8.6% as against 5.6%. As in previous years the emphasis in development plans generally was on the provision of basic facilities, particularly communications, with a tendency to pay greater attention to social services, particularly housing, and to research on resources. Manufacturing output continued to expand during 1954 and 1955.

UNITED NATIONS: *Quarterly Bulletin of Steel Statistics for Europe*, prepared by the Industry Division Economic Commission for Europe, Geneva, March 1956, 125 pp. Volume VII, No. 1 of this series has been published.

UNITED NATIONS: Department of Economic and Social Affairs, Fiscal and Financial Branch: *International Tax Agreements*, Volume VI. New York 1956. 262 pp.

This volume is the sixth in a series entitled International Tax Agreements prepared by the Fiscal and Financial Branch of the Bureau of Economic Affairs. This series is a continuation of the six-volume Collection of International Agreements and Internal Legal Provisions for the Prevention of Double Taxation and Fiscal Evasion published from 1928-1936 by the League of Nations. Volumes I, II and IV contain the texts of agreements concluded up to 1 June, 1953. Volume VI brings the publication of tax agreements up to date. Volume III presented in tabular form comprehensive information on the status of tax agreements as of 1 January 1951. It was superseded by Volume V, entitled World Guide to International Tax Agreements, which brought this information up to 1 June, 1953. A supplement to Volume V, carrying the data up to 1 June, 1955, is scheduled for publication, as Volume VII of the series. The texts of agreements are reproduced in official versions transmitted by the contracting governments or in translations prepared by the United Nations.

UNITED NATIONS, Department of Economic and Social Affairs; *World Economic Survey* 1955. New York, 1956, 201 pp.

World Economic Survey, 1955, is the eighth in a series of comprehensive reviews of world economic conditions published by the United Nations. The report is intended to meet the requirements of the Economic and Social Council and other organs of the United Nations for an appraisal of the world economic situation as a prerequisite for recommendations in the economic field, as well as to serve the needs of the general public. Part I of the present survey devotes special attention to developments during the past ten years. Drawing upon the analyses in this part the Introduction examines some of the major problems of balanced growth encountered since

the war. Part II of the survey is devoted to an examination of recent developments in the world economy. The basic data used in the report are, in general, as published in governmental or inter-governmental sources, or as officially reported to the United Nations and its specialized agencies. The survey was prepared in the Department of Economic and Social Affairs by the Bureau of Economic Affairs.

UNITED NATIONS, Department of Economic and Social Affairs; *Economic Developments in the Middle East* 1954-1955. New York, 1956, 151 pp.

A report on economic conditions in the Middle East is issued each year by the Secretary-General of the United Nations as a supplement to the annual survey of the world economic situation. The aim of the present report is limited to a general description of trends in production, trade, finance and development programmes during the past two years, leaving more detailed analysis to the special studies, on which work has been started.

The Middle East had in 1954 a population of approximately 100 million. Economic life in the region is still largely dominated by the fate of the staple crops. The economic effects of great changes in the output of such crops are reflected in the figures of national income. The oil revenues are the most spectacular, although not the only encouraging, element in the favourable long-run economic prospects in the Middle East as a whole. In the past few years progress towards utilizing the great potentialities for economic development has been encouraging.

UNITED NATIONS, *Economic Bulletin for Europe*, Vol. 8, Nr. 1, Prepared by the Research and Planning Division, Economic Commission for Europe, Geneva, May 1956.

The Economic Bulletin for Europe is published three times a year, in May, August and November, and is intended to provide a regular view of the economic situation of Europe in the intervals between the publication of the annual Economic Survey of Europe. Besides the Current Economic Developments in Europe, Bulletin Vol. 8, Nr. 1 contains an article on input-output tables.

RENÉ GOFFIN: *Les contrôles et poursuites en matière de taxes de transmission.* Fédération des entreprises de l'industrie des fabrications métalliques A.S.B.L., Bruxelles 1954, 139 pp.

Cet ouvrage comble une lacune: l'inexistence d'un traité récent, exposant le régime des contrôles et poursuites dans le domaine de la taxe de transmission. A cet effet, il s'adresse plus spécialement à ceux qui assument la direction du contentieux ou des services comptables des entreprises industrielles et commerciales, et aux praticiens du droit fiscal. Aux uns, l'ouvrage apporte l'essentiel des obligations imposées par les dispositions légales et réglementaires; il les renseigne sur l'étendue de leurs droits. Aux autres, il fournit une abondante jurisprudence sur les difficultés d'interprétation que soulèvent les problèmes de fond et de procédure. L'ouvrage, qui comporte 140 pages, est divisé en trois parties.

La première partie est relative aux contrôles de l'administration. Elle traite, dans un premier titre du contrôle des documents. Le second titre traite du contrôle des établissements. La deuxième partie de l'ouvrage est consacrée aux poursuites. Après avoir exposé les divers moyens de preuves admis en la matière et précisé les modalités d'application de l'amende fiscale, l'auteur envisage les poursuites sous leurs deux formes. Enfin, la troisième partie traite de la prescription. Celle-ci est envisagée sous trois aspects: en matière de contrôle, en matière de poursuites administratives et en matière pénale.

Union des Associations Internationales: *L'avenir des organisations internationales non gouvernementales*, Bruxelles, 1956, 55 pp.

Cette organisation non gouvernementale sans but lucratif, fondée en 1910, en relations consultatives avec l'Ecosoc et l'Unesco, est le seul centre dans le monde se consacrant à l'inventaire, à l'étude et à la promotion des relations internationales non gouvernementales. Cette publication, premier fascicule dans une série pour servir à l'étude des relations internationales non gouvernementales, comprend cinq essais:

Et. de la Vallee Poussin, sénateur belge: La coopération des individus à l'action des Etats.

R. Fenaux, professeur d'histoire diplomatique à la „French University" à New York: Reflexions sur la participation des organisations non gouvernementales aux travaux de l'O.N.U.

L. Hamori, membre de la Section des Organisations non gouvernementales du Secrétariat du conseil économique et social des Nations Unies à New York: Le rôle des organisations non gouvernementales dans le programme de défense sociale des Nations Unies.

G. P. Speekaert, secrétaire général de l'Union des Associations Internationales: Les fonctions, les méthodes et la valeur du travail international non gouvernemental.

R. Lenz, secrétaire de l'Union des Associations Internationales: Les sources de documentation en matière d'organisations internationales non gouvernementales.

In der Reihe „Steuerkommentare aus dem Bundesfinanzministerium" Industrie-Verlag Carlheinz Gehlsen GmbH, Alpsteinweg 4, Konstanz, sind folgende Ausgaben erschienen:

Görbing: *Richtlinien zur Durchführung des Wohnungsbau-Prämiengesetzes*, 1956, 42 pp.

Die ausführliche Kommentierung widmet sich insbesondere der genauen Feststellung der prämienbegünstigten Aufwendungen. Weiter werden neben Erläuterungen zur Berechnung und Beantragung der Prämien sowie anderen Einzelheiten die verschiedenen Bestimmungen über die Verwendung der Prämien zu den vertragsmässigen Zwecken besonders eingehend dargestellt. Der alle Einzelheiten sorgfältig klärende Kommentar ist ausgezeichnet zur erschöpfenden Bearbeitung der mit den Wohnungsbauprämien-Bestimmungen zusammenhängenden Fragen geëignet.

Dr. Steinberg: *Körperschaftsteuer-Richtlinien* 1955, 96 pp.

Die Körperschaftsteuer-Richtlinien 1955 sollen dazu beitragen, das Körperschaftsteuerrecht in allen Ländern des Bundesgebietes nach einheitlichen Grundsätzen anzuwenden. Sie nehmen zu *Zweifelsfragen* Stellung, die eine *einheitliche Entscheidung* erfordern und geben zu Auslegungsfragen von allgemeiner Tragweite die Auffassung der Finanzverwaltung wieder. Neben diesem die Rechtsauslegung betreffenden Gebiet enthalten sie Anweisungen, wie in bestimmten Fällen verfahren werden soll, in denen es erforderlich erscheint, *Härten* zu vermeiden oder eine *Verwaltungsvereinfachung* durchzuführen. Die ausführliche Kommentierung von dem zuständigen Körperschaftsteuerreferenten des Bundesfinanzministeriums ist von besonderer Bedeutung für die Finanzverwaltung wie für die steuerberatenden Berufe und die Steuerpflichtigen selbst, denn sie ist die geeignete Arbeitsgrundlage, um die Veranlagungsverfahren zu vereinfachen und zu beschleunigen und sich ergebende Zweifels- und Auslegungsfragen zu klären.

Ostendorf: *Fünftes Lastenausgleichs-Änderungsgesetz nebst AVN-Erlass*, 1956, 94 pp.

Angehörige der Vereinten Nationen und Rückerstattungsberechtigte

können Vermögensabgabe-Vergünstigungen in Anspruch nehmen und zwar wahlweise nach dem LAG oder nach dem Überleitungsvertrag. Neben den ausführlichen Anmerkungen von Reg.-Oberinsp. Ostendorf enthält der Kommentar u.a. einen Überblick über die in Betracht kommenden Vergünstigungen sowie einen übersichtlichen Vergleich über die Vorteile der verschiedenen Vergünstigungen im Einzelfall.

RING: *Verwaltungsanordnung über den Erlass von Kreditgewinnabgabe*, 1956, 12. pp.

Die Verwaltungsanordnung regelt die Anwendung des § 131 AO bei der Erhebung der Kreditgewinnabgabe. In 24 Anmerkungen zu dem vorangestellten Wortlaut erläutert Reg.-Amtmann Ring ausführlich allgemeine Fragen, den Erlass fällig gewordener Vierteljahrbeträge, den Erlass der Abgabeschuld sowie die buch- und kassenmässige Behandlung der Erlassbeträge.

GÖRBING: *Änderungsverordnung zur Kapitalertragsteuer-Durchführungsverordnung*, 1956, 20 pp.

Die Anderung durch die neue Verordnung betrifft zwei Punkte, und zwar die Anderung der Vorschriften über die Kapitalertragsteuer von Zinsen festverzinslicher Wertpapiere (Kuponsteuer) und die Anderung der Vorschriften zur Erhebung der besonderen Körperschaftsteuer auf Schachtelgewinne in der Form des Steuerabzugs. Beide Neuregelungen werden durch die sehr sorgfältige Kommentierung ausführlich erläutert.

BRUHN: *Einkommensteuer-Richtlinien* 1955, 390 pp.

In der Reihe „Steuerkommentare aus dem Bundesfinanzministerium" erscheint hiermit der ausführliche Kommentar zu den Einkommensteuer-Richtlinien 1955, in Weiterführung der jedes Jahr neu erscheinenden bewährten Richtlinien-Kommentare dieser Reihe.

Die diesjährigen Richtlinien sind von besonderer Bedeutung, weil alle noch gültigen Bestimmungen aus früheren Richtlinien aufgenommen wurden. Das in den vergangenen Jahren geübte Verfahren, noch gültige Vorschriften, die inzwischen Allgemeingut der Verwaltung und der Praxis wurden, in den Richtlinien wegzulassen, hat sich nicht bewährt. Es liegt für 1955 also nun eine Zusammenfassung aller für die Einkommenbesteuerung 1955 gültigen Bestimmungen vor.

Die Vorzüge des neuen Richtlinien-Kommentars sind kurz folgende: Ausführliche Kommentierung auch von Zweifelsfragen und Grenzfällen — Einarbeitung der wichtigsten Ausführungen des BFH, der Finanzgerichte, der Länderfinanzministerien und der Oberfinanzdirektionen — Vermerke in jedem Abschnitt, ob bzw, worin sich der bisherige Rechtszustand geändert hat — Umfang 390 Seiten, davon rund 160 Seiten Kommentar.

Der neue Kommentar zu den EStR 1955 ist damit die von berufener Seite gegebene Arbeits- und Informationsgrundlage für die Steuerpflichtigen und die steuerberatenden Berufe.

Alle diese Bücher aus der Reihe „Steuerkommentare aus dem Bundesfinanzministerium" sind Sonderdrücke der „Deutsche Steuer-Zeitung Ausgabe C", Industrie-Verlag Carlheinz Gehlsen GmbH vorm. Spaeth & Linde, Schliessfach 42, Konstanz. Die Ausgabe C ist ein Nachschlagewerk in Loseblattform. Der Bezug der Lieferungen im Abonnement ist wesentlich günstiger als die Sonderdrücke.

Prof. URSULA HICKS (Oxford): *Steuerpolitik im Wohlfahrtsstaat.* Die Erfahrungen in Grossbritannien. Duncker & Humblot, Geranienstrasse 2, Berlin-Lichterfelde, 1953, 42 pp. Mit einem Geleitwort von Prof. Dr. G.

Schmölders, Köln. Finanzwissenschaftliche Forschungsarbeiten, Neue Folge, Heft 3.

Das Finanzwissenschaftliche Forschungsinstitut an der Universität Köln legt hier zwei Vorträge vor, die die Inhaberin des ordentlichen Lehrstuhls für Finanzwissenschaft an der Universität Oxford, Mrs. Ursula Hicks, im Juni 1953 auf Einladung der Universität Köln gehalten hat. Das Institut setzt damit die Linie fort, die mit der Forschungsarbeit über die Kinderbeihilfen begonnen wurde und die darauf abzielt, die sozialpolitischen Rückwirkungen und Probleme zu untersuchen. Im Mittelpunkt dieser Problematik der öffentlichen Ausgaben steht der Gedanke einer Umschichtung der Einkommensverteilung durch die öffentliche Hand, wie ihn vor mehr als zwei Generationen Adolph Wagner zuerst formuliert und als Aufgabe der Steuerpolitik bezeichnet hat. Die beiden Vorträge von Mrs. U. Hicks: „Die Steuerpolitik Grossbritanniens seit dem Kriege" und „Die Einkommensumschichtung durch die öffentliche Hand" können für Untersucher viele Anhaltspunkte bieten, nicht zuletzt in methodologischer Beziehung. Ihr Grundgedanke ist den wirklichen Redistributionseffekt der zahlreichen Finanz- und Sozialmassnahmen der öffentlichen Körperschaften in grossen Zügen zahlenmässig zu erfassen und zu veranschaulichen.

Verlag der Steuertarife KG P. Wachsmann, Margarethenstrasse 28, M. Gladbach.

1. *Die steuerlichen Abschreibungen* (AfA). Ausgabe 1956. Mit ausführlichem Tabellenmaterial einschl. der amtlichen Abschreibungstabellen der Ostzone für 1952-55 zum Vergleich, sowie neu amtlichen Abschreibungstabellen der Bundesrepublik. 223 pp.

In dieser Zusammenstellung ist das bisher bekannt gewordenen Erfahrungsmaterial über die Höhe der Absetzungen für Abnutzungen (AfA) verwertet. Die Zusammenstellung enthält bekanntgewordene Absetzungen für Abnutzung, wie sie von den Steuerbehörden nach den Erfahrungen in der Praxis gebilligt wurden. Im Anhang befinden sich die amtlichen Abschreibungstabellen, die die Verbände der Textilindustrie im Benehmen mit der Finanzverwaltung aufgestellt haben. Diese sind auch für andere Industrie- und Handelszweige nicht nur ein Anhaltspunkt, sondern auch interessant.

2. *Die Steuertarife sämtlicher Steuergesetze.*

4. Ergänzungslieferung zur 12. Auflage.
5. Ergänzungslieferung zur 12. Auflage.

3. *Die amtlichen Steuerrichtsätze und Eigenverbrauchsätze* 1949-1950-1951-1952-1953-1954-1955 für Süd-, West- und Norddeutschland.

Durch diese Zusammenstellung entsteht für den Praktiker das Vergleichsmaterial das er für seine Arbeit benötigt. Ohne weiteres sind die Abweichungen der einzelnen Jahre sofort erkennbar. Die Richtsätze bestehen aus Rahmensätze und einem Mittelsatz (gewogenes Mittel). Dieser Mittelsatz stellt den Durchschnittssatz aus den Einzelergebnissen aller geprüften Betriebe einer Gewerbeklasse dar. Die ermittelten Richtsätze sind Hilfsmittel (Anhaltspunkte) für die Verwaltung, um die Einkünfte eines Steuerpflichtigen bei Fehlen anderer geeigneten Unterlagen im Schätzungsweg (§ 217 der Abgabenordnung) zu ermitteln. Die Rohgewinnsätze und die Reingewinnsätze sind in Hundertsätzen des wirtschaftlichen Umsatzes (Wert der Lieferungen und sonstigen Leistungen zuzüglich des Eigenverbrauchs) ausgedrückt. Sie sind deshalb auf den wirtschaftlichen Umsatz anwendbar.

4. G. Stutz: *Der Prüfungsschlüssel der Kosten und Richtsätze nach den amtlichen Richtsatzzahlen* 1955 *für das Bundesgebiet.*

Die amtlichen Richtsätze, die sich in vielen Fällen von Jahr zu Jahr

ändern, dienen der Finanzverwaltung bei der Nachprüfung der abgegebenen Steuererklärungen und beim Fehlen anderer, geeigneten Unterlagen zur Schätzung der Einkünfte und des Umsatzes. Die Wirkung der Richtsätze ist so weitreichend, dass die Finanzämter den Beweis für evtl. Abweichungen von den Richtsätzen dem Steuerpflichtigen überlassen. Die Richtsätze sind durch zahlreiche Vorprüfungen seitens der Finanzverwaltungen jeweils neu ermittelt und können auch als interessante betriebswirtschaftliche Kennziffern, die bei der Kalkulation und Planung eine bedeutsame Rolle spielen, dienen. Ein Satz praktischer Vordrücke wird mitgeliefert und ist im Preis einbegriffen.

Verlag Dr. Otto Schmidt KG, Hohenzollernring 78, Köln:

1. *Steuerrechtsprechung in Karteiform.* Höchstgerichtliche Entscheidungen in Steuersachen. Mrozek-Kartei.
   54. Lieferung, Juni 1956.
   55. Lieferung, Juli 1956.
   56. Lieferung, August 1956.

2. *Schnellkartei des deutschen Rechts,*
   Reihe III, Lieferung 68, Juni 1956.
   Reihe III, Lieferung 69, Juli 1956.

3. Carl Herrmann und Dr. Gerhard Heuer: *Kommentar zur Einkommensteuer und Körperschaftsteuer.* 7. Auflage.
   Lieferung 28. Juli 1956, 21. Ersatz- und Ergänzungslieferung.

C.H. Bech'sche Verlagsbuchhandlung, München und Berlin. Wilhelmstrasse 9, (13b) München 23:

1. *Steuer-Richtlinien* und andere Verwaltungsvorschriften zu den Deutschen Steuergesetzen. *Ergänzungslieferung Juli* 1956 (hat Anschluss an die Ergänzungslieferung Mai 1956). 232 Seiten. Hauptband, 3. Auflage, Stand Juli 1956, 1664 Seiten Taschenformat.

   Mit der Ergänzungslieferung Juli 1956 werden die neuen Gewerbesteuer-Richtlinien 1955 in die Sammlung eingefügt. Ferner enthält diese Lieferung besondere Sachverzeichnisse zu den Einkommensteuer-Richtlinien 1955, den Körperschaftsteuer-Richtlinien 1955 und den Gewerbesteuer- Richtlinien 1955, sowie die Richtlinien zur Durchführung des Wohnungsbau-Prämiengesetzes in der Fassung vom 12. Juli 1956.

2. Dr. Hedin Brockhoff: *Einkommensteuerrecht.*
   7. Ergänzungslieferung zur 1. Aufl.
   4. Ergänzungslieferung zur 2. Aufl.

   Das Werk enthält nunmehr das gesamte Einkommensteuerrecht für die Jahre 1950-1955. Im Mittelpunkt der neuen Lieferung steht die Einkommensteuer-Durchführungsverordnung 1955. In den Textteil wurden das 2. Einkommensteuer-änderungsgesetz vom 11.8.1955 und der Wortlaut der Anordnungen der Länder zur weiteren Anwendung des § 33a EStG 1953 aufgenommen. Der Rechtsprechungsteil wurde durch Auszüge aus den höchstrichterlichen Urteilen erweitert und umfasst nunmehr über 1700 Urteilsleitsätze. Die RFH-Urteile zur Frage des Abzugs von Kraftfahrzeugkosten und zur steuerlichen Behandlung von Veräusserungsrenten und Versorgungsrenten wurden überarbeitet und vervollständigt. Der Anhang wurde um mehrere Verordnungen erweitert.

3. *Deutsche Steuergesetze.* Textsammlung mit Verweisungen. Loseblattausgabe. Ergänzungslieferung Januar 1956 (hat Anschluss an die Ergänzungslieferung November 1955) — 172 Seiten.

Die Ergänzungslieferungen zur Sammlung „Deutsche Steuergesetze" erscheinen in rascher Folge. Die Lieferung Januar 1956 enthält die Einkommensteuer-Durchführungsverordnung 1955 und die Körperschaftssteuer-Durchführungsverordnung 1955, ferner die Neufassungen der Lohnsteuer-Jahresausgleichsverordnung, der Kapitalertragssteuer-Durchführungsverordnung, des Gesetzes zur Förderung der Wirtschaft von Berlin und der Art. 106 und 107 GG.

Ergänzungslieferung April 1956 (hat Anschluss an die Ergänzungslieferung Januar 1956). 208 Seiten. Hauptband 12. Auflage, ergänzt bis April 1956: 1936 Seiten.

Neu sind die Gewerbesteuer-Durchführungsverordnung 1955 vom 14. März 1956 und die Verordnung über die Mitwirking des Bundes bei der Verwaltung der Einkommensteuer und Körperschaftsteuer vom 27.1.1956. Eine Änderung haben das Umsatzsteuergesetz, die Umsatzsteuer- Durchführungsbestimmungen sowie die Einkommensteuer-Durchführungsverordnung erfahren. Änderungen rein redaktioneller Art haben neue Bekanntmachungen der Verordnung über den Lohnsteuer-Jahresausgleich und der Kapitalertragsteuer-Durchführungsverordnung bewirkt. Die Texte des Einkommensteuergesetzes 1955 und des Körperschaftsteuergesetzes werden ausgewechselt, weil die Verweisungen auf die betreffenden Durchführungsverordnungen durch deren jüngste Änderung überholt waren und der Berichtigung bedurften.

4. *Rudolf Harmening*, Lastenausgleich-Kommentar. 10. Lieferung, April 1956.

Die 10. Lieferung bringt eine völlige Überarbeitung des noch nicht auf den neuesten Stand gebrachten Kommentaren zum Abgabenteil und den Abschnitten Organisation und Verfahren des Lastenausgleichsgesetzes. Ferner sind die Erläuterungen zum Feststellungsgesetz, zum Währungsausgleichsgesetz und zum Altsparergesetz dem jetzigen Rechtsstande angepasst. Auf diesen Gebieten dürfte die Gesetzgebung auch nahezu abgeschlossen sein. Das amtliche Material (Verordnungen, Weisungen, Durchführungsbestimmungen und Erlässe), das bis zum 1. April 1956 vorlag, ist in das Werk aufgenommen. Als Neuerung sind in dieser Lieferung erstmals mehrere farbige Blätter Rechtsprechungsübersicht gebracht. Diese Blätter werden zu allen Teilen des Kommentars erscheinen und laufend ergänzt werden. Der Benutzer des Buches erhält so laufend eine Ubersicht über den Stand der Rechtsprechung, ohne dass es nötig wäre, deswegen immer die Kommentarblätter zu ändern und auszuwechseln.

Fachverlag für Wirtschafts- und Steuerrecht Schäffer & Co., G.m.b.H. Hackländerstr. 33, Stuttgart:

Dr. Hartz und Regierungsrat Over: *ABC Führer Lohnsteuer*. Kommentar zum gesamten Lohnsteuerrecht in Loseblattform für Lohnbüros, Steuerberatung und Finanzverwaltung. Grundwerk mit neuster Ergänzung ca. 800 S.

Erschienen: 16. Lieferung 124 Seiten
17. Lieferung 192 Seiten
18. Lieferung 120 Seiten.

Die beiden Fortsetzungen 16 und 17 bringen eine Vervollständigung des Erläuterungsteils und die Neufassungen der Lohnsteuer-Änderungsverordnung und der Lohnsteuerrichtlinien.

In der 18. Ergänzung werden alle Änderungen erläutert, die sich aus der Neufassung der Einkommensteuerdurchführungsverordnung und der Jahresausgleichsverordnung ergeben. Ihr Wortlaut erscheint im Textteil. Neben

anderen Bestimmungen erhalten die über Reisekosten eine besonders ausführliche Bearbeitung.

Institut „Finanzen und Steuern", Markt 14, Bonn am Rhein. Sachregister, Heft 1 bis 30. 109 pp.

Das Sachregister umfasst zunächst die Hefte 1 bis 30 der Schriftenreihe. Es berücksichtigt ausserdem die Fortsetzungsbände „Der Bundeshaushalt" Heft 15, Band 1 bis 14, „Die heutige Steuerbelastung der gewerblichen Wirtschaft" Heft 26 Band 1 bis 3, „Grundlagen für die Bemessung der westeuropäischen Verteidigungsbeiträge", Heft 27, Band 1 und 2, und „Grundlagen und Möglichkeiten einer organischen Finanz- und Steuerreform", Heft 30, Band 1 und 2. Das Sachregister wird von Zeit zu Zeit auf den neuesten Stand gebracht werden.

The Association of certified and corporate accountants: Estate Duty on business assets. *The effect of the Finance Act* 1954. 22, Bedford Square, London W.C. 1, 1955, 41 pp.

In the autumn of 1953 this Association, at the invitation of the Chancellor of the Exchequer, submitted a memorandum on anomalies arising under estate duty law with particular reference to section 55 of the Finance Act, 1940, which deals with shares passing on the death of a „controller". Among its recommendations on Section 55 the Association suggested that reduced rate relief on agricultural property and quick succession relief should apply to property owned by a company, where shares in the company pass on a death; and that where a company has made unusually high profits in the year of the death some deduction in respect of the tax liability thereon should be permitted in the valuation of its assets for estate duty purposes. These matters have since been dealt with in the Finance Act, 1954. This Act has also made changes which will remove from valuation on an assets basis many holdings which would otherwise be so valued on the death of a shareholder who did not have voting control of the company. Among its other provisions is one relating to certain sales, within three years of the death, of shares valued under Section 55. The Act also gives some relief in the amount of duty which may be incurred under Section 46 of the Finance Act, 1940, whereunder a controlled company may itself be liable to estate duty on its assets on the death of a person to whom benefits have accrued from the company in the five years ending with his death, where that person has at any time transferred assets to the company. This booklet attempts to deal in some detail with these several matters.

TOLLEY'S *Income tax chart-manuel* 1955-56. Chas. H. Tolley & Co., 15, High Street, Croydon, Surrey, England, 1956, 125 pp.

This is the 40th edition of this useful manual. It is completely revised in new form, and incorporates: Income Tax Act, 1952 — cross referenced on each page to previous Acts; Finance Acts, 1952 to 1955 — all changes and new provisions dealt with; Legal decisions to June, 1955 — over 1300 cases quoted.

This practical book is indexed and cross-referenced for rapid consultation.

DONALD L. FORBES: *Schedule A Tax*. 4th edition. Gee and Company (Publishers), 27-28 Basinghall Street, London, EC2, 1956, 108 pp.

It is now twenty years since this book on Schedule A tax first appeared, and with the introduction of the assessment of excess rents in the intervening years the whole question of the taxation of income from property has certainly widened in its scope.

The last Schedule A revalution was as long ago as 1936-37 and soon it will be essential for the Chancellor of the Exchequer to face up to the necessity for modernizing the Schedule A assessments on owner-occupied properties.

Here is a book devoted to one aspect of the taxation system which can be conveniently segregated, so that reference to almost every type of problem to be met with in practice is dealt with in considerable detail. It gives immediate reference to day-to-day cases.

A. J. ROPER: *Back Duty Manual* — Butterworth & Co. (Publishers) Ltd, London, 1953, 130 pp.

A text book on back duty that gives instruction not only in the computation of omitted profits but also in the presentation of a case to the Revenue and in the negotiation of a settlement. The manual will be of use to accountants dealing with back duty work which is interesting and exacting, but requires a special technique of its own.

„*Current Law*" *Income Tax Acts Service* (CLITAS). Sweet & Maxwell, London.

Release 34, August 15, 1956, brings subcribers the text of the Finance Act, 1956, fully annotated.

This loose-leaf service, consisting of two volumes, is well known for its sending releases immediately after enactment of a new law.

The Bank of Bermuda, Limited — *Memorandum regarding domicile of investment funds in Bermuda.* 4th edition. 1955, 121 pp.

This booklet will be of value to those who are interested in the Island as a domicile for investments, or as a situs for other purposes. The following informative data are included:

Memorandum from Counsel to the Bank; The Companies Act, 1923, The Companies Act, 1948, The Companies Act, 1950, and The Companies Act, No. 2, 1950; Copy of a typical Bermuda Company Act, together with usual bye-laws; The Bermuda Merchant Shipping Act, 1930, and The Exempted Shipping Companies (Prohibited Business Undertakings) Act, 1952; The Customs Duty Special Remission Act, 1951; Typical form of Trust Settlement.

R. JACOMET: *La Réforme budgétaire,* Tome III, Programmes et marchés publics. Études de Finances Publiques, publiées sous les auspices du Centre français de Droit Comparé. Les éditions de l'épargne, 174, Boulevard Saint-Germain, Paris — 6e, 1956, 265 pp.

Les travaux de la Commission d'Etude de la Réforme budgétaire, constituée au sein de l'Institut de Droit comparé, à la demande de la Commission des Finances de l'Assemblée Nationale, avec l'agrément du Gouvernement, ont fait l'objet de deux volumes publiés par les Editions de l'Epargne. Ceux-ci contiennent un avant-projet de la loi organique sur la présentation du budget prévue par l'article 16 de la Constitution du 27 octobre 1946 ainsi que les études préalables à l'élaboration de ce texte. Une partie importante de ces travaux a été consacrée aux lois de programme. Dans le cadre des conclusions adoptées sur ce point par la Commission d'Etude de la Réforme budgétaire, le Gouvernement a demandé à celle-ci de préparer un avant-projet d'instruction générale sur l'élaboration et l'exécution des programmes. Pour remplir cette tâche, la Commission a fait procéder à des enquêtes comparatives dans plusieurs pays, notamment en Grande-Bretagne, aux Pays-Bas et aux Etats-Unis d'Amérique. Ces enquêtes ont fait l'objet de rapports qui sont publiés dans le présent volume et dont la valeur d'exemple ne saurait échapper. La Commission a également utilisé la riche documentation que possède l'Institut de Droit comparé sur les pratiques étrangères. Tout naturellement, la Commission a été conduite à étudier les modes de conclusion et d'exécution des marchés publics en tant qu'instruments de la réalisation des investissements publics. Plusieurs communications ont été pré-

sentées à ce sujet devant la Commission. Les études relatives aux rapports de l'Etat avec les industries privées et publiques auxquelles il attribue des commandes sont publiées dans les deuxième et troisième parties du présent volume.

Association Nationale des Sociétés par Actions (A.N.S.A.) *La dépression de titres au porteur*. Nouveau régime institué par le décret du 11 janvier 1956. A.N.S.A., 51, Rue Pierre-Charron, Paris (VIIIe.), 1956, 51 pp.

Le régime spécial de protection que la loi du 15 juin 1872, modifiée par quelques textes, avait institué au profit des propriétaires de titres au porteur dépossédés par un événement quelconque indépendant de leur volonté vient d'être modifié assez sensiblement par un décret No. 56-27 du 11 janvier 1956 relatif à la procédure à suivre en cas de dépossession de titres au porteur ou de coupons (J.O. 12 janvier, p. 499). Ce décret a été suivi de deux arrêtés d'application, également du 11 janvier, et parus au même Journal Officiel du 12 (pp. 491 et 492). Ces textes ont eu pour but de simplifier la législation en vigueur et de faciliter le règlement des conflits qui peuvent s'élever entre le propriétaire dépossédé et le tiers porteur qui vient à se révéler.

Après avoir rappelé, dans un court historique, tout l'intérêt pratique que comporte l'institution d'un système spécial de protection au profit des propriétaires de titres au porteur qui en sont dépossédés, on souligne, dans ce livre, les traits essentiels de la nouvelle réglementation.

Maurice Maillet: *Régime fiscal des salaires, pensions et rentes viagères* (Versement forfaitaire — Taxe proportionnelle). Librairies Techniques, 25-27, place Dauphine, Paris (1er), 1955, 320 pp.

Cet ouvrage important s'adresse à toute entreprise qui occupe du personnel. Il constitue un répertoire complet des nombreuses questions qui peuvent se poser en matière d'impôt sur les salaires (versement forfaitaire de 5%): indemnités imposables, allocations pour frais professionnels exonérées, évaluation fiscale des avantages en nature, déduction supplémentaire pour frais professionnels, etc. Il renseigne les employeurs sur toutes les formalités administratives auxquelles ils doivent satisfaire en la matière, notamment sur les versements à effectuer au percepteur et sur les déclarations annuelles des sommes payées. Enfin, on y trouvera toutes les indications utiles en ce qui concerne le régime fiscal des rentes viagères et des pensions (pensions de retraite et pensions alimentaires servies aux ascendants en particulier). Une table alphabétique très détaillée permet de se reporter rapidement à la page où se trouve exposée la solution recherchée.

Lion Delhez — *La Taxe de Transmission à la Portée de tous* — Imprimée sur les presses des Editions Mosa, rue Sur-Meuse 41 à Huy, 15 septembre 1954, 135 pp.

Viele Bücher sind geschrieben worden die sich mit der „Taxe de Transmission" (Umsatzsteuer) in Belgien befassen. Manchmal richten sie sich an die Fachleute oder Grossbetriebe.

Dieses Buch will ein Führer für die Handwerker und kleinen Handelsgewerbe sein. Es ist nicht in für viele unverständlicher juristischer Sprache sondern in einfachen Wörten geschrieben.

Der Leser soll darauf achten dass jetzt die Sätze der „Taxe de Transmission" um ± 10% erhöht worden sind. Daher ist der Normalsatz nicht mehr 4½% sondern 5%, u.s.w.

C.G.I. Mise a jour des codes annotés. (Impôts Directs). Impôts et Sociétés, Bulletin No. 5, April 1956.

Les Publications Francis Lefebvre, 15, rue Viète, Paris (17e):

FEUILLETS DE DOCUMENTATION PRATIQUE, trente-troisième année.

Nous avons reçu la collection de feuillets no. 2, juin 1956 et no. 3, juillet 1956, de cette riche et abondante documentation sur feuillets mobiles, constamment tenue à jour par addition ou substitution de feuillets.

Code Annotés d'Impôts et sociétés publiés sous la direction de M. RENÉ LOTTE. S.A.D.G.A.I.S. — 3, Cite d'Hauteville, Paris (10e.).

Le présent ouvrage constitue le Tome VI du Code annoté des Impôts Directs. Il comprend les commentaires des art. 151 à 204 du C.G.I.

MARCEL LE BRIS & RENÉ LOTTE: Professions et taxes sur le chiffre d'affaires - S.A.D.G.A.I.S. - Paris.

Nous avons reçu Bulletin no. 2, juin 1956.

LOUIS BROËT et YVES LAYE: *Tarif fiscal algérien.* 3ième édition, à jour au 15 Mai 1956. Association Nationale des Sociétés par Actions A.N.S.A., Section Algérienne, 18, avenue Claude-Debussy, Alger, 1956.

Il s'agit du tarif des Impôts sur les Capitaux Mobiliers, des Impôts sur les Revenus, des Taxes Diverses, des Droits de Timbre, des Droits d'Enregistrement et des Droits de Donations et de Successions.

J. Noorduyn en Zoon N.V., Gorinchem.

1. P. KARMELK: *Besluit op de inkomstenbelasting* 1941. (Income Tax Ordinance, 1941) — De Belastingwetgeving Serie D.B. No. 2 (loose-leaf service).
   Supplement 5 8e druk
   Supplement 6 7e druk

2. P. KARMELK: *Tabakswet,* 4e druk.
   De Belastingwetgeving Serie I. & A. No. 3.
   Supplement 1

N. Samsom N.V. - Alphen aan den Rijn.

DE GROOT: *Nederlandse Belastingwetten* (Netherlands Tax Laws), Supplements 105, 106, 107.

This is a loose-leaf publication containing the texts of the majority of the tax laws in force in the Netherlands.

Dr. KLEIN: *Das Recht des Saarlandes.* Blätter für die Praxis der Justiz, Verwaltung und Wirtschaft. Saarländische Verlagsanstalt und Druckerei, Ursulinenstrasse 1, Saarbrücken 3.

Es sind erschienen die Lieferungen: Zweite Verordung zur Durchführung des Körperschaftsteuergesetzes vom 12. April 1954, nach dem Stand vom 18. Mai 1956.

Richtlinien für die Veranlagung der Körperschaftsteuer nach dem Stand vom 18. Mai 1956.

Zweite Verordnung zur Durchführung des Gewerbesteuergesetzes, vom 3. Februar 1954, nach dem Stand vom 18. Mai 1956.

Richtlinien für die Veranlagung der Gewerbesteuer nach dem Stand vom 18. Mai 1956.

HENRY C. SIMONS: *Federal tax reform* - The University of Chicago Press, Chicago 37, 1950, 161 pp.

The publication of this book completes Professor Simons' posthumous work in economic theory. It is more than a popularization of a technical

subject. It is a lucid and principled survey of the field of taxation. The author presents a series of discussions on the various characteristics and basic problems of contemporary taxation — corporation taxes, capital gains, depreciation and accounting problems, averaging, gift and estate taxation. These discussions are done with insight and mastery.

J. K. Lasser Tax Institute and Ralph Wallace: *How to save estate and gift taxes*. The American Research Council, 11 East 44th Street, New York 17, 1955, 310 pp.

A complete account of the estate and gift tax provisions, a discussion of methods of saving tax, plus 25 practical plans for preserving capital and assets. The number and significance of opportunities for tax-wise savings was substantially increased by the 1954 tax law, thus affording important new opportunities to save tax. The book is fully up-to-date on all changes made by the far-reaching 1954 Revenue-Act — changes relating to life insurance, stock dividends, pension benefits, and jointly owned real estate, etc.

Although written in non-technical terms, it will also be invaluable as a source of ideas for accountants, attorneys, bank officers, insurance men, and other advisers on estate problems. The 25 tax-saving ideas particularly will help these specialists to offer imaginative and practical help to their clients.

George Stinson and Robert Anthoine: *Tax-free exchanges* — Practical Law Institute, 20 Vesey Street, New York 7, N.Y., 1956, 115 pp:
Fundamentals of federal taxation: Robert Anthoine, executive editor.

This monograph discusses the sections of the Internal Revenue Code that provide for the nonrecognition of gain or loss at the time certain kinds of property are exchanged. Before the various types of tax-free exchanges are examined, the general provisions of the Code dealing with the computation of gain or loss are considered. At the end of the monograph, the basis provisions of general application are also discussed.

Arthur Nussbaum: *Money in the law, national and international.*
A comparative study in the borderline of law and economics.
The Foundation Press, Inc., 268 Flatbush Ave, Extension, Brooklyn 1, N.Y.

The present volume is more than a revised edition of „Money in the law" published in 1939. Though based on the earlier work it is practically a new book. The main renovation consists in the increased emphasis upon the international ramifications of the subject. This change required a thorough reorganization of the volume which is now divided into two books, the first dealing with the law of money in general, and the second with its international aspects. The legal history of American currency has received a separate treatment as an Annex to the two books.

Tax Institute: *The Pennsylvania tax problem*, 1955. Tax Institute Conference. Tax Institute, Harrisburg, Pennsylvania, 1955, 212 pp.

Encompassed in this text are the papers presented at the Conference on Pennsylvania Taxation held at Harrisburg on April 5 and 6, 1955 under the auspices of Tax Institute, Inc., of Princeton, New Jersey. Also included in this reproduction of the proceedings of the Conference are the remarks of discussion leaders and discussion from the floor. This Conference on Pennsylvania Taxation followed the usual pattern of conferences conducted by Tax Institute, Inc. It was an open forum on the "Commonwealth of Pennsylvania's budget and tax problems". Qualified representatives of business, accounting and legal professions, government and education presented papers treating various phases of Pennsylvania's budget and tax problems.

Prentice-Hall, Inc., 70 Fifth Avenue, New York 11, N.Y.:

1. *Federal Income Tax Specimen Returns*
   Corporation, partnership, fiduciary, 1955, 64 pp.
   Forms for corporation, partnership and fiduciary return completely worked out for filing in 1956.
2. *Federal tax report bulletin*, loose-leaf, Vol. XXXVII, Nrs. 19-30, with two special releases, covering the period between May 10th, 1956 up to and including July 26th, 1956. For more details on the main work we refer to the advertisement on page 290.
3. *Individual federal income tax specimen returns*, 1955, 40 pp. Every individual whose gross income for the taxable year was $600 ($1.200 for those 65 and over) or more had to file a return within 3½ months after its close (i.e. April 16, 1956). This book is a step-by-step explanation with filled-in forms as a help for the taxpayer.

What you should know about Taxes in Puerto Rico. 1955-1956 edition. Department of the Treasury, Office of research and statistics, San Juan, Puerto Rico, 1955, 65 pp.

This booklet presents the basic facts about the major aspects of the Commonwealth of Puerto Rico's tax system — the Commonwealth's internal taxes, its industrial tax exemption program and its tax relations with the United States Government — as well as a calendar of important tax events. It has been specially prepared to answer, briefly and clearly, the questions on Puerto Rican taxes most frequently asked by visitors to the Island and persons who come to reside in Puerto Rico or do business there. Part V of this booklet presents information of particular interest to persons in Puerto Rico who are subject to both Federal and Commonwealth taxes or to Federal taxes only. Part VI presents detailed information on how to go about paying the Puerto Rican excise and license taxes on an automobile brought to Puerto Rico and obtaining a driver's licence.

Canadian tax Foundation, 191 College Street, Toronto 2B, Ontario:

1. Jean Boyer de la Giroday: *Canadian taxation and foreign investment.* 1955, 100 pp.

The present publication may best be described as a study of the general terms of taxation governing investment in Canada by non-residents and governing investment in other countries by Canadians. It is a study of principles and rules rather than of individual cases. At a time when Canadian prospects are becoming of more and more interest to investors and businessmen the world over the publication of a study of Canadian taxation in relation to international investment seems particularly appropriate. It is all the more suitable in that as yet no other study of this character has appeared in Canada.

4. *Death Duties, Income tax forum, Sales Tax.* Canadian Tax Foundation, 191 College Street, Toronto 2B, Ontario, 46 pp.

The announcement in the 1954 Budget Speech of the intention of the federal government to overhaul its succession duty legislation has brought death taxation to the fore as a subject of immediate interest in Canada. It therefore appeared prominently on the programme for the Eighth Tax Conference. The present study first describes in very broad terms the general character of the Canadian, the British and the American systems; it then discusses the treatment of several special categories of problems in all three countries, and concludes with a summary of certain Canadian court cases and information on revenue collections from the source in Canada.

Furthermore there are reproduced as data papers for the above-mentioned

conference the following sections of the Income Tax Act: Non-Deductible Expenses, Arm's Length, Pensions and Annuities; and from the Excise Tax Act: Exemptions and Sale Price.

5. *Taxes and traffic.* A study of Highway Financing. Toronto 1955, 158 pp.

This study is the first comprehensive analysis of the practical and theoretical aspects of highway financing to be published in Canada. There is no doubt that this study will stimulate interest in this subject. The problem of finding funds to meet the future demand for highways raises some of the most acute issues in public finance today.

The study outlines steps which should be taken in Canada if progress is to be made towards a long-run solution of the highway, road and street problem. Among the more important of these are: studies and surveys, provincial aid, federal aid and toll roads.

2. *The National Finances* 1954-55. An analysis of the programme of revenues and expenditures of the Government of Canada. Canadian Tax Foundation 191 College Street, Toronto 2B, Ontario, 83 pp.

3. *The National Finances* 1955-56. An analysis of the programme of revenues and expenditures of the Government of Canada. Canadian Tax Foundation, 191 College Street, Toronto 2B, Ontario, 120 pp.

This publication is an attempt to reduce the vast phenomenon of the year budget of the national government to understandable terms. The multitude of activities is organized into groupings that make sense. Individual functions are described as objectively as possible. The purpose to thread a way through the complexities of the federal budget has been well reached. This book, that will appear annually henceforth, is an important contribution towards aiding the citizen in understanding his government.

J. HARVEY PERRY: *Taxes, tariffs, & subsidies.* A history of Canadian fiscal development. Volume I and II. University of Toronto Press, 1955, 763 pp.

This study is the first attempt to give an organized survey of the development of the Canadian tax structure from earliest times. It covers a span of three centuries from the first primitive imposts to the highly complex measures of today. The main emphasis is on the dominant role that taxes, tariffs, and intergovernmental subsidies have played in Canadian life since Confederation. Taxes, Tariffs & Subsidies covers taxation at all three levels of government —federal, provincial and municipal. It gives the history of the major taxes — income taxes, corporation profits taxes, sales taxes, death duties, tariffs, and property taxes. It relates the growth of provincial taxes, and tells of municipal experiments with the "single tax", the personal property tax, and the income tax.

One of the most pressing problems in Canada is the proper allocation of taxing powers between the federal government and the provinces, and the payment of subsidies by the Dominion to the provinces. This book explains the background of the arrangements made at the time of union and traces the subsequent developments down to the present scheme of tax tental agreements. Tables, summaries, chronological surveys, and biographical material included in Taxes, Tariffs & Subsidies give more information than has ever been presented in one book. As a source of data alone it will be of great value to all concerned with taxation. The book is sponsored by the Canadian Tax Foundation.

G. A. ELLIOTT: *Tariff procedures and trade barriers.* A study of indirect protection in Canada and the United States. University of Toronto Press, 1955, 293 pp.

There are aspects of procedures for collecting customs and enforcing regulations that may confer a degree of protection on certain domestic producers, either unintentionnally or intentionally. This additional, "indirect" protection is the subject of Professor Elliott's interesting and informative study. By a clear and orderly marshalling of the facts, and a wealth of illustrative cases, he has provided a background of information against which the total effects of tariffs and import regulations may be assessed. This book is intended, not as a customs house guide, but as a source of information for that alert public whose interest in international economic relations and constant awareness of facts have already provided a strong impetus to a world movement in favour of more liberal trade policies. Professor Elliott's book is published under the auspices of the Canadian Institute of International Affairs and the Canadian Tax Foundation.

S. S. SASTRY and L. S. SASTRI: *The Estate Duty Act* (XXXIV of 1953) — Law Book Co., Post Box no. 4, Allahabad, revised edition 1954, 367 pp. With an analytical introduction by Sri C. M. Row.

The Act has been put into force from 15th October, 1953. This book contains illuminating notes based on rulings given on questions that have arisen on the corresponding provisions in U.K. Finance Acts and other analogous foreign statutes and full comments on the new provisions made, for instance, those relating to the Mitakshara, Coparcenary, Hindu Women's Rights to Property Act, Indian Succession Act, etc. There is a chapter on avoidance of tax and many other useful appendices complete this useful work.

THE ASSOCIATION OF INDIAN TRADE INDUSTRY: *Income tax rates compared.* 2-4, Apollo Street, Fort, Bombay, 1955, 45 pp.

This study of the taxation of the income of individuals and corporations in India, the U.K., the U.S.A., Canada, Australia, South Africa, Japan, France, and other countries, was undertaken with a view to comparing the position of the Indian taxpayer with that of his counterpart in each of these countries. The data for most countries are for the years 1953-54 or 1954-55, only for Sweden, Brazil and Egypt, 1951 was the latest year for which corresponding data were available.

The rates of tax on individual and corporate income, as well as the exemptions from tax, and allowances, rebates and reliefs, prevailing in these countries, have been presented in a way that facilitates comparison. The study been divided into four sections. The first section gives an introduction to the subject and a summary of the entire study. The second section deals with the taxation of the income of persons; the third, with corporate taxation; and the fourth, with the economic effects of taxation.

A. N. AIYAR, B. A., B. L.: *The Income Tax Reports Digest* — (Being a Digest of OF Vols 21 to 28 of the Income Tax Reports), 1955, Company Law Institute of India Ltd., Thyagarayawagar, Madras 17, 246 pp.

Das Buch ist sehr wertvoll für jeden, der sich mit der Rechtsprechung in Indien zu befassen hat. Es gibt sehr viele Urteile und ein bequemes Buch mit ausgewählten Entscheidungen ist sehr erwünscht. Im ersten Abschnitt dieses Werkes hat man wichtige Urteile aufgenommen, die veröffentlich worden sind in den Bänden 1-20 des Income Tax Reports und dieser Teil bietet eine Auswahl der Urteile, die in den Bänden 21-28 des Income Tax Reports aufgenommen waren. Das Buch hat u.a. ein Schlagwortregister und ein chronologisches Register aller veröffentlichten Entscheidungen.

Outline of National Tax in Japan 1955 — Taxation Bureau, Ministry of Finance, Tokyo, 1955, 73 pp.

Wiederum ist diese bequeme Ausgabe erschienen. In kurzen Zügen gibt sie einen Uberblick der nationalen Steuern, wie diese gültig sind seit dem 1. August 1955. In einem besonderen Abschnitt wird eine Ubersicht der beschränkten Steuerpflicht für natürliche und juristische Personen gegeben. Ausserdem enthällt sie eine schematische Darstellung der Gemeindesteuern. Zölle sind nicht in dieser Ausgabe aufgenommen worden.

A. S. SILKE: Supplement to *Income tax in the Central African Federation* (The Federation of Rhodesia and Nyasaland). Juta & Co, Cape Town 1955, 38 pp.

This booklet contains the text of and commentary to the 1955 taxation legislation: the Income Tax Amendment Act, 1955; The Taxes Charging Act, 1955; the Territorial Surcharge (Annual) Act, 1955 (Southern Rhodesia), the Territorial Surcharge (Percentage and Rate) Ordinance, 1955 (Byasaland); the Territorial Surcharge (Authorization) (Amendment) Ordinance, 1955. Moreover there are added a few recent important court decisions.

M. J. PETTIGROVE and E. R. RISSTROM: *The Taxpayer*, June 1955. — 36th annual taxation summary. The Taxpayers' Association of New South Wales, Cathcart House, 11 c Castlereagh Street, Sydney, 1955, 114 pp.

This summary of Australasian tax laws, with its overseas supplements, has become increasingly popular throughout the world. It contains: Australian taxation of individuals, ready reckoners, primary producers' section, overseas taxation of individuals, company taxation, entertainments tax, sales tax, payroll tax, land tax, gift duty, death duties, stamp duties, U.S. conventions on gift and death duty.

THE AUSTRALIAN INSTITUTE OF POLITICAL SCIENCE: *Taxation policy*. Winter forum 1953, 102 pp.

This book consists of the following Papers read at the Winter Forum of the Australian Institute of Political Science held at Sydney on 2nd, 9th and 16th July, 1953: Taxation and inflation, by G. R. Mountain; Uniform taxation, by Allan Tyrer; Taxation, production and living standards, by Colin Clark and H. W. Herbert; Conclusion - Issues of taxation policy, by R. C. Gates.

Commonwealth of Australia. *Sales tax exemptions and classifications* 1954. Canberra 1954, 761 pp.

In December, 1948, the Department of Taxation, Commonwealth of Australia, published the volume Sales Tax Exemptions and Classifications, 1948, which contained official rulings concerning the classification of goods under the items in the Schedules to the Sales Tax Exemptions and Classification Act as then in operation. Since the publication of that book, there have been many changes in the law. The 1954 publication is designed to supersede Sales Tax Exemptions and Classifications 1948, and to provide details of the Schedules as now in force, together with rulings covering the classification of goods thereunder published in Sales Tax Rulings up to and including S.T.R. 3/54. It also contains, in a separate section, details of the higher rate Schedules which operated during the period 22nd November, 1940, to 9th September, 1953.

J. A. L. GUNN in collaboration with O. E. BERGER and R. E. O'NEILL: *Gunn's commonwealth income tax law and practice*. 4th edition. Butterworth & Co. (Australia) Ltd., Sydney, 1954, 1415 pp.

Since the publication of the third edition of this book in March 1951, nine amending Acts and the Income Tax (International Agreements) Act

have been enacted. Many changes in the law have been made by these Acts including the fusion of the Income Tax and the Social Services Contribution into a single levy; the simplification of the method of taxing the undistributed incomes of private companies; and the ratification of a taxation convention between the United States and Australia. The present edition contains references to a great number of new decisions on income tax. Reference is also made to all relevant income tax decisions of the Courts of England, Scotland, Canada and South Africa. The fourth edition contains the Income Tax and Social Services Contributions Assessment Act 1936-1953 (no. 27 of 1936-no. 81 of 1953), together with the Income Tax (International Agreements) Act 1953, so that the statute law is stated as at 1 May 1954. The text includes the Regulations made up to 1 April 1954, and cites decisions of the Australian Courts up to 28 February, 1954, and those of the English courts up to the close of 1953.

V

COMMONWEALTH BUREAU OF CENSUS AND STATISTICS

CANBERRA, AUSTRALIA

Commonwealth, State and Territory Taxation Collections, 1954-55

1. *General*: In the following statement, statistics are presented of taxation collections by the Commonwealth, States and Territories (Northern Territory and Australian Capital Territory) during 1954-55 with comparative particular for earlier years.

Commonwealth taxes include the wool tax, the stevedoring industry charge and export charges on such primary products as apples and pears, canned fruits, dairy produce, dried fruits, eggs, wheat and wine. These receipts are transferred to Trust Funds and used for purposes of the industry concerned. The information presented for State taxation includes amounts collected and paid to special funds outside the Consolidated Revenue Fund; separate details are shown of these collections. Taxes collected in the Northern Territory and the Australian Capital Territory include only the main taxes, Several minor taxes for which separate details are not available and rates, licence fees, etc. of a local government nature are not included.

Particulars of Local Government Taxation Collections (rates, licence fees, sanitary and garbage charges) are not included in this statement, but some reference to them is necessary to complete the picture of Australian taxation. In 1952-53, the latest year for which figures are available, local government taxation amounted to £ 49.8 m; (New South Wales £ 21.1 m; Victoria £ 12.2 m; Queensland £ 10.0 m; South Australia £ 3.0 m; Western Australia £ 2.3 m; Tasmania £ 1.2 m). Levies of a similar nature are made in the Territories. These amounted to approximately £ 32,000 in 1952-53.

2. *Summary* 1954-55: During 1954-55, Commonwealth Government taxation collections amounted to £ 937.6 m. or £ 37.1 m (4.1%) more than in 1953-54 and State and Territory collections to £ 89.6 m or £ 9.1 m (11.3 %) more than in 1953-54. Combined totals amounted to £ 1,027,2 m., an increase of £ 46.2 m(4.7 %) over 1953-54.

Increases in Commonwealth taxation collections were: customs and excise duties £ 24.2 m, sales tax £ 4.8 m., income tax £ 4.7 m, export charges £ 5.2 m. (including the wheat export charge which was reimposed in 1954-55, £ 5.1 m.), payroll tax, wool tax and gift duty £ 1.2 m. There were decreases totalling £ 3.0 m in the remaining items. Increases in State and Territory collections were: probate and succession duties £ 2.9 m., motor taxes £ 1.9 m,. lottery taxes £ 1.7 m., other stamp duties £ 1.5 m. and the remaining items (other than racing tax which decreased by £ 0.5 m.) £ 1.6 m.

The main variations from the previous year in the proportions of major taxes or groups of taxes to the total collections were in customs and excise duties which increased from 22.5 % in 1953-54 to 23.8 % and income taxes which decreased from 53.9 % in 1953-54 to 51.9 %.

The total collections per head of population increased by £ 2.15s 9d from the 1953-54 figure. Commonwealth collections increased by £ 1.19 s 6d

per head of population while State and Territory collections increased by 16s 3d per head of population. Income tax collections decreased by 14s 6d per head of population and customs and excise duties increased by £ 2.2s 11d per head of population. Commonwealth collections per head of population in 1954-55 amounted to £ 103 2s 11d, State and Territory to £ 9 17s 2d and the combined figure to £ 113. os 1d.

The tables on the following pages show details of the various collections during 1954-55 and comparisons of 1954-55 figures with those of earlier years.

3. *Commonwealth, State and Territory Taxation Collections,* 1954-55 — *classes of Tax.*

Particulars of total Commonwealth, State and Territory taxation collections in 1954-55 according to various classes of tax, are as follows: —

Table I: Commonwealth, State and Territory Taxation Collections, 1954-55

Tax	Commonwealth		States and Territories (a)		Total	
	Amount	Per Head	Amount	Per Head	Amount	PerHead
	£'000	£. s. d.	£'000	£. s. d.	£'000	£. s. d.
Customs Duties	101,254	11. 2.10	—	—	101,254	11. 2.10
Excise Duties	143,149	15.14.11	—	—	143,149	15.14.11
Sales Tax	100,446	11. 1. 0	—	—	100,446	11. 1. 0
Land Tax	13	—	4,998	0.11. 0	5,011	0.11. 0
Income Taxes	532,916	58.12. 6	(b) 52	0. 0. 1	532,968	58.12. 7
Pay-roll Tax	41,455	4.11. 2	—	—	41,455	4.11. 2
Probate and Succession Duties	9,614	1. 1. 2	21,612	2. 7. 6	31,226	3. 8. 8
Gift Duty	1,618	0. 3. 7	—	—	1,618	0. 3. 7
Racing Taxes	—	—	6,992	0.15. 5	6,992	0.15. 5
Entertainments Tax	2	—	1,341	0. 2.11	1,339	0. 2.11
Wool Tax (c)	784	0. 1. 9	—	—	784	0. 1. 9
Wheat Export Charge (c) ...	5,063	0.11. 2	—	—	5,063	0. 11 2
Export Charges (c)	305	8	—	—	305	0. 0. 8
Stevedoring Ind. Charge (c) ..	998	0. 2. 2	—	—	998	0. 2. 2
Other Stamp Duties	—	—	16,027	1.15. 3	16,027	1.15. 3
Liquor Taxes	—	—	5,588	0.12. 4	5,588	0.12. 4
Lottery Taxes.....	—	—	(d)3,478	0. 7. 8	3,478	0. 7. 8
Motor Taxes	—	—	27,874	3. 1. 4	27,874	3. 1. 4
Licences n.e.i. and all other taxes.....	—	—	1,650	0. 3. 8	1,650	0. 3. 8
TOTAL	937,613	103.2.11	89,612	9.17. 2	1,027,225	113. 0.1

(a) The principal taxes levied in the Northern Territory and the Australian Capital Territory have been included. For details see footnotes to Table III. (b) Arrears of State income taxes. (c) Paid to Trust Funds and used for purposes of industry concerned. (d) Includes income tax, £ 392,000, payable on lottery prizes in Tasmania.

4. *Commonwealth Collections in each State,* 1954-55: The following table shows particulars of Commonwealth taxation collections in each State during 1954-55. The figures represent the amounts collected in each State, but do not necessarily indicate the amounts contributed by the people of each State, as moneys are collected in one State in respect of goods consumed or assessments made in other States.

Table II: Commonwealth Taxation Collections — States, 1954-55
(£'000)

Tax	N.S.W. a	VIC.	Q'LD.	S.A. (b)	W.A.	TAS.	TOTAL
Customs Duties	43,395	31,448	10.994	8,092	5,668	1,657	101,254
Excise Duties	55,942	46,420	14,861	11,487	10,901	3,538	143,149
Sales Tax	41,155	29,111	11,947	11,213	5,638	1,382	100,446
Land Tax	18	8	13	—	—	—	13
Income Taxes.....	194,450	205,784	56,638	37,273	28,579	10,192	532,916
Pay-roll Tax	17,065	12,516	4,624	3,522	2,578	1,150	41,455
Estate Duty	3,068	4,036	806	916	618	170	9,614
Gift Duty	633	482	115	222	108	58	1.618
Entertainments Tax	2	—	—	—	—	—	2
Wool Tax (c)	289	195	114	91	79	16	784
Wheat Export Charge (c)	—	5,063	—	—	—	—	5,063
Export Charges (c)	87	114	65	15	9	15	305
Stevedoring Ind. Charge (c)	322	223	189	112	86	66	998
TOTAL:	356,422	335,400	100,340	72,943	54,264	18,244	937,613

(a) Includes Australian Capital Territory. (b) Includes Northern Territory. (c) Paid to Trust Funds and used for purposes of industry concerned.

NOTE — Minus sign (—) indicates an excess of refunds.

5. *State and Territory Taxation Collections* 1953-54 *and* 1954-55.

The total taxes collected by the States, shown in this and subsequent tables, should not be used as a measure of the relative severity of taxation in the several States. The items included in this table are those items of State revenue which conform to the statistical definition of taxation. The purposes for which revenue is raised and the methods of raising revenue from some sources vary considerably between the States.

For example five States, New South Wales, Victoria, Queensland, Western Australia and Tasmania raised substantial revenue from lotteries. In New South Wales, Queensland and Western Australia the lotteries are conducted by the State or a State instrumentality and the profits are used for State purposes. In Victoria and Tasmania the lotteries are conducted by non-government organizations and the revenues from these sources are obtained by means of taxes. In 1954-55 the profits from lotteries (excluding amounts included in the table below) in the three States were — New South Wales, £ 3,679,000 (£ 1. 1s. 3d. per head of population) Queensland, £ 1,224,000 (18s. 6d per head of population) and Western Australia £ 364,000 (11s. 3d per head of population).

Another example is the case of racing taxes in South Australia and Tasmania. In these States tax on bookmakers includes a levy made on behalf of race clubs. In 1954-55 these amounted to £ 373,000 (9s. 3d per head of population) and £ 176,000 (11s 3d per head of population respectively.

A further consideration is that some taxes levied by a State are borne in part by the residents of other States.

Details of taxation collections for 1954-55 and totals for 1953-54 are shown below: —

Table III: *State and Territory Taxation Collections* — 1953-54 *and* 1954-55
(Includes Taxes Paid to Special Funds)

(i) Collections (see Note above)
(£'000)

Tax	N.S.W.	VIC.	Q'LD.	S.A.	W.A.	TAS.	TOTAL
1954-55 —							
Motor —							
Registration Fees and Taxes	8,702	4,533	4,075	2,841	1,227	600	22,069
Drivers', &c, Licences	783	364	(a)139	308	112	42	1,748
Other	1,362	1,432	904	89	119	151	4,057
Total Motor	10,847	6,329	5,118	3,238	1,458	793	(b)27,874
Probate & Succession Duties	9,589	6,305	2,513	1,661	1,062	472	(c)21,612
Stamp Duties, n.e.i.....	6,314	4,172	2,613	1,227	1,250	451	16,027
Land	2	2,624	1,206	568	391	207	4,998
Income (Arrears)	19	22	9	1	1	—	52
Liquor	2,418	2,108	523	58	287	169	(d)5,588
Lotteries	—	2,598	304	—	—	(e)576	3,478
Racing	2,789	2,100	285	1,070	406	342	6,992
Entertainments	—	996	—	—	225	120	1,341
Licences n.e.i. & all other	101	243	1,073	97	130	6	(f)1,650
Total — Paid to Consolidated Revenue Fund	21,232	20,861	8,735	7,547	3,757	2,690	64,948
— Paid to Special Funds (g) .	10,847	6,636	4,909	373	1,453	446	24,664
GRAND TOTAL 1954-55	32,079	27,497	13,644	7,920	5,210	3,136	89,612
GRAND TOTAL 1953-54	29,749	22,300	12,817	6,911	4,682	3,941	80,503

See footnotes next page.

(ii) Collections per head of population
(£. s. d.)

Tax	N.S.W.	VIC.	Q'LD.	S.A.	W.A.	TAS.	TOTAL
1954-55							
Motor	3. 2. 8	2.10.11	3.17. 3	4. 0. 3	2. 4.11	2.10. 8	3. 1. 4
Probate & Succession Duties	2.15. 6	2.10. 8	1.17.11	2. 1. 2	1.12. 9	1.10. 2	2. 7. 6
Stamp Duties, n.e.i.	1.16. 6	1.13. 7	1.19. 5	1.10. 5	1.18. 6	1. 8. 9	1.15. 3
Land	—	1. 1. 1	0.18. 2	0.14. 1	0.12. 0	0.13. 3	0.11. 0
Income (Arrears) ...	0. 0. 1	0. 0. 2	0. 0. 2	—	1	—	0. 0. 1
Liquor	0.14. 0	0.16.11	0. 7.11	0. 1. 5	0. 8.10	0.10.10	0.12. 4
Lotteries	—	1. 0.11	0. 4. 7	—	—	1.16. 9	0. 7. 8
Racing	0.16. 1	0.16.11	0. 4. 3	1. 6. 6	0.12. 6	1. 1.10	0.15. 5
Entertainments	—	0. 8. 0	—	—	0. 6.11	0. 7. 8	0. 2.11
Licences, n.e.i. and all other	0. 0. 7	0. 1.11	0.16. 3	0. 2. 4	0. 4. 1	0. 0. 5	0. 3. 8

Total — Paid to Consolidated Revenue Fund	6. 2. 9	8. 7. 8	6.11.10	9. 6.11	5.15.10	8.11.11	7. 2.11
— Paid to Special Funds	3. 2. 8	2.13. 5	3.14. 1	0. 9. 3	2. 4. 9	1. 8. 5	2.14. 3
GRAND TOTAL 1954-55	9. 5. 5	11. 1. 1	10. 5.11	9.16. 2	8. 0. 7	10. 0. 4	9.17. 2
GRAND TOTAL 1953-54	8.14. 9	9. 4. 1	9.17. 1	8.15.10	7. 8. 5	12.14 9	9. 0.11

(a) As from October, 1952 no charge has been made for drivers' licences. Instead, a driving fee is charged upon renewal of registration. The sum so collected is credited to Consolidated Revenue Fund. (b) Includes registration fees and drivers' licences collected in Northern Territory £ 37,000 and Australian Capital Territory £ 54,000. (c) Includes Probate and Stamp Duties, Northern Territory, £ 10,000. (d) Includes liquor taxes collected in Australian Capital Territory £ 25,000. Details of liquor taxes collected in Northern Territory are not available. (e) Includes income tax, £ 392,000 (£ 1.5.1 per head) payable on lottery prizes in Tasmania. (f) Details for Northern Territory and Australian Capital Territory are not available. (g) See below.

6. *State Taxation Collections paid to Special Funds*, 1954-55: The following table shows the amounts paid to Special Funds in each State during 1954-55.

Table IV: State Taxation Collections Paid to Special Funds
1954-55
(£'000)

Tax	N.S.W.	VIC.	Q'LD.	S,A.	W.A.	TAS.	TOTAL
Motor Taxes	10,847	6,327	4,075	—	1,360	270	22,879
Liquor Taxes	—	128	80	—	—	—	208
Racing Taxes	—	—	—	373	—	176	549
Other Stamp Duties	—	181	—	—	—	—	181
Other	—	—	754	—	93	—	847
TOTAL:	10,847	6,636	4,909	373	1,453	446	24,664

7. *Commonwealth, State and Territory Taxation Collections*, 1945-46 to 1954-55 — Amounts collected and collections per head of population for the Commonwealth, States and Territories from 1945-46 to 1954-55 are shown in the following table: —

(i) Amounts Collected
(£'000)

Year ended 30th June	*State and Territory Collections*							Common-wealth	TOTAL
	N.S.W.	VIC.	Q'LD.	S.A.	W.A.	TAS.	Total(a)		
1946	9,764	6,527	3,748	2,208	1,452	1,446	25,172	353,211	378,383
1947	10,979	7,942	4,123	2,294	1,575	1,635	28,576	385,616	414,192
1948	13,003	8,364	4,718	2,437	1,933	1,820	32,309	422,413	454,722
1949	14,412	9,463	5,435	3,038	2,099	2,140	36,626	490,813	527,439
1950	16,584	10,814	6,172	3,475	2,518	2,420	42,032	518,959	560,991
1951	20,850	13,226	7,755	4,347	2,977	2,756	51,973	777,187	829,160
1952	24,840	16,943	9,672	5,151	3,455	3,089	63,220	934,011	997,231
1953	27,678	19,157	11,603	5,341	3,912	3,467	71,238	895,464	966,702
1954	29,749	22,300	12,817	6,911	4,682	3,941	80,503	900,450	980,953
1955	32,079	27,497	13,644	7,920	5,210	3,136	89,612	937,613	1,027,225

(ii) *Collections per Head of population*
(£. s. d.)

1946	3. 6.7	3. 4. 9	3. 9.2	3.10. 0	2.19.3	5.15.6	3. 7. 9	47.10.11	50.18.8
1947	3.14.1	3.17.10	3.15.2	3.11 8	3. 3.4	6. 8.6	3.16. 0	51. 5. 9	55. 1.9
1948	4. 6.8	4. 0.10	4. 4.8	3.14. 7	3.16.0	6.19.4	4. 4. 7	55. 5.10	59.10.5
1949	4.14.6	4. 9. 5	4.15.4	4.10. 9	4. 0.5	8. 0.7	4.13.11	62.19. 1	67.13.0
1950	5. 5.5	4.19. 5	5. 5.3	5. 0. 1	4.12.5	8.16.5	5. 4. 6	64.10. 3	69.14.9
1951	6. 8.9	5.17.11	6. 8.6	6. 0. 5	5. 4.5	9.14.4	6. 5. 2	93.12. 1	99.17.3
1952	7.10.0	7. 6. 9	7.16.0	6.18. 7	5.17.2	10.10.7	7. 8. 3	109.10. 4	116.18.7
1953	8. 4.5	8. 1. 6	9. 2.5	6.19. 4	6. 8.0	11. 9.2	8. 3. 1	102.10. 6	110.13.7
1954	8.14.9	9. 4. 1	9.17.1	8.15.10	7. 8.5	12.14.9	9. 0.11	101. 3. 5	110. 4.4
1955	9. 5.5	11. 1. 1	10. 5.0	9.16.02	8. 0.7	10. 0.4	9.17. 2	103. 2.11	113. 0.1

(a) Includes taxation collections in the Northern Territory and the Australian Capital Territory — 1945-46, £ 27,000; 1946-47, £ 28,000; 1947-48, £ 34,000; 1948-49, £ 39,000; 1949-50, £ 49,000; 1950-51, £ 62,000; 1951-52, £ 70,000; 1952-53, £ 80,000; 1953-54, £ 103,000; and 1954-55, £ 126,000.

8. *Commonwealth, State and Territory Collections*, 1950-51 *to* 1954-55 — *Classes of Tax*:

The following table shows, for various classes of tax, Commonwealth, States and Territories combined; — (i) the amounts collected; (ii) the proportion of each tax to total collections, and (iii) the collections per head of population:

Table VI: Commonwealth, State and Territory Taxation Collections

Tax	1950-51	1951-52	1952-53	1953-54	1954-55
	Amounts Collected (£'000)				
Customs and Excise Duties	165,004	213,917	183,824	220,217	244,403
Sales Tax	57,173	95,459	89,067	95,689	100,446
Land Taxes	4,953	8,710	4,666	4,359	5,011
Pay-roll Tax	28,721	37,170	40,171	40,384	41,455
Income Taxes (a)	451,779	551,297	554,869	528,273	532,968
Probate and Succession Duties	19,414	23,178	26,155	28,531	31,226
Other Stamp Duties	11,961	12,228	12,297	14,544	16,027
Motor Taxes.....	15,619	20,571	23,374	25,951	27,874
All Other Taxes	74,536	34,701	32,279	23,005	27,815
TOTAL	829,160	997,231	966,702	980,953	1,027,225

(*ii*) *Proportion of Total Collections*
(Per cent)

Tax	1950-51	1951-52	1952-53	1953-54	1954-55
Customs and Excise Duties	19.90	21.45	19.02	22.45	23.79
Sales Tax	6.90	9.57	9.21	9.76	9.78
Land Taxes	0.60	0.87	0.48	0.44	0.49
Pay-roll Tax	3.46	3.73	4.16	4.12	4.04
Income Taxes (a)	54.49	55.29	57.41	53.86	51.88
Probate and Succession Duties	2.34	2.33	2.71	2.91	3.04
Other Stamp Duties	1.44	1.23	1.27	1.48	1.56
Motor Taxes.....	1.88	2.06	2.42	2.65	2.71
All Other Taxes	8.99	3.47	3.32	2.33	2.71
TOTAL:	100.00	100.00	100.00	100.00	100.00

(iii) Collections per Head of population
(£. s. d.)

Customs and Excise Duties	19.17. 6	25. 1. 8	21. 0.11	24.14.10	26.17. 9
Sales Tax	6.17. 9	11. 3.10	10. 3.11	10.15. 0	11. 1. 0
Land Tax	0.11.11	1. 0. 5	0.10. 8	0. 9.10	0.11. 0
Pay-roll Tax	3. 9. 2	4. 7. 2	4.12. 0	4.10. 9	4.11. 2
Income Taxes (a)	54. 8. 3	64.12.10	63.10. 7	59. 7. 1	58.12. 7
Probate and Succession Duties	2. 6. 9	2.14. 4	2.19.11	3. 4. 1	3. 8. 8
Other Stamp Duties	1. 8.10	1. 8. 8	1. 8. 2	1.12. 8	1.15. 3
Motor Taxes.....	1.17. 7	2. 8. 3	2.13. 6	2.18. 4	3. 1. 4
All Other Taxes	8.19. 6	4. 1. 5	3.13.11	2.11. 9	3. 1. 4
TOTAL:	99.17. 3	116.18.7	110.13.7	110. 4.4	113. 0.1

(a) Includes Wool Deduction 1950-51, £ 109,531,000 (13.3s. 7d. per head); 1951-52, £ 5,963,000 (14s. od. per head); 1952-53 £ 2,223,000 (5s. 1d. per head); and 1953-54, £ 239.000 (6d. per head).

S. R. CARVER
Acting Commonwealth Statistician

Commonwealth Bureau of Census and Statistics
Canberra. A.C.T. *28th March* 1956.

AUSTRALIAN TAX BURDEN[1])

In the year 1954–55 the Commonwealth and States collected £1,027,225000 in taxation, exceeding the previous record in 1951-52 by £30m. Collections were £46m. higher than for 1953-54.

In 1954-55 the burden per head of population was £113/0/1 compared with £69/14/9 only 5 years ago.

The Australian burden of £113/0/1 per head compares with £E.88/15/5 in Great Britain.

An average Australian family of a man, his wife and two children paid £8/14/- per week in taxes.

The principal taxes on spending (Sales Tax, Customs and Excise) represented £37/18/9 per head while Income Tax accounted for £58/12/7.

Taxes absorbed 25.46 percent of the National Income for 1954-55.

PER CAPITA

The burden per head of population has grown over the past decade:

1945-46	£ 50.18.8
1946-47	£ 55. 1.9
1947-48	£ 59.10.5
1948-49	£ 67.13.0
1949-50	£ 69.14.9
1950-51	£ 99.17.3
1951-52	£116.18.7
1952-53	£110.13.7
1953-54	£110. 4.4
1954-55	£113. 0.1

FAMILY BURDEN

Taxes per week have cost the average family of a man, wife and two children:

[1]) Prepared by the Australian Tax Foundation.

1938-39	£1. 7.8
1941-42	£2.11.0
1946-47	£4. 4.8
1947-48	£4.11.7
1948-49	£5. 4.0
1949-50	£5. 7.3
1950-51	£7.13.6
1951-52	£8.19.7
1953-54	£8. 9.6
1954-55	£8.14.0

RATIO TO NATIONAL INCOME

The following table shows the ratio of Australian taxation to National Income — many economists assert that once taxes exceed 25 percent the results are highly inflationary:

	Percent
1938-39	16
1940-41	19.8
1942-43	22.8
1944-45	28.8
1946-47	30.4
1947-48	25.9
1948-49	27.2
1949-50	24.4
1950-51	26.7
1951-52	30.8
1952-53	26.84
1953-54	25.54
1954-55	25.46

LOCAL GOVERNMENT TAXES

The figures quoted above do not include municipal and shire rating and similar local government charges. In 1952-53, the latest figures available, local government taxation amounted to £49.8 millions.

I

DONNEURS DE LICENCES ETRANGERS ET TAXES SUR LE CHIFFRE D'AFFAIRES FRANÇAISES

par JEAN H. ROTHSTEIN, H.E.C. (Paris)

Au cours des derniers 18 mois, la France a conclu avec la *Suisse*, les *Etats-Unis* et la *Suède* des accords aux termes desquels certains droits de licences, payés par des entreprises françaises à des bénéficiaires appartenant à ces pays, sont exonérés de la Taxe s.l. Prestations de Services française de 8,50%. Des négociations analogues sont en cours avec d'autres pays.

Quels sont le but et le contenu de ces accords?

Quelle est, d'autre part, la situation des bénéficiaires étrangers dont les gouvernements n'ont pas (ou pas encore) conclu, avec la France, des arrangements similaires?

I. *Définition du Problème.*

a) En France, les Taxes s.l. Chiffre d'affaires (Taxe s.l. Valeur Ajoutée, Taxe s.l. Prestations de Services, Taxe Locale) s'appliquent exclusivement aux opérations ayant un caractère *industriel ou commercial;* les opérations se rattachant à l'exercice d'une *profession libérale* échappent donc complètement à ces impôts.

D'autre part, les décisions judiciaires et administratives en matière de Taxes s.l. Chiffre d'Affaires sont — dans une large mesure — indépendantes de celles rendues dans le domaine des Contributions Directes [1]; il est donc tout à fait possible qu'une opération soit qualifiée — dans le domaine des Taxes s.l. Chiffre d'Affaires — de non-commerciale, bien que les bénéfices en soient considérés comme soumis aux impôts „industriels et commerciaux", en matière de Contributions Directes.

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1) Les „attendus" de certains arrêts du Conseil d'Etat semblent indiquer le contraire; mais en réalité on peut démontrer l'indépendance entre ces deux domaines fiscaux par un grand nombre d'exemples pratiques.

En application de ces principes, le Conseil d'Etat, par une jurisprudence constante, a décidé que les droits de licence payés en contre-partie de l'exploitation d'un brevet, d'une marque de fabrique, formule de fabrication etc. sont exonérés des Taxes s.l. Chiffre d'Affaires, même s'ils sont payés à une *société de capitaux, à condition* toutefois que celle-ci puisse justifier de sa *„qualité d'inventeur"*, c'est-à-dire que l'invention ait été réalisée dans le cadre de l'entreprise, par ses salariés, sous ses directives et à ses risques et périls.

Les entreprises par contre qui ne peuvent justifier de la „qualité d'inventeur" sont passibles de la Taxe s.l. Prestations de Services de 8,50% sur le montant des droits perçus.

b) Rien, dans cette jurisprudence du Conseil d'Etat, ne permet d'exclure, du bénéfice de la „qualité d'inventeur", les donneurs de licences établis ou domiciliés à l'*étranger*.

Mais pendant de longues années, cette question ne se posait même pas, — pour la simple raison que cette catégorie de bénéficiaires était exonérée en toute hypothèse. Selon la législation en vigueur avant le 1er Juillet 1954, la Taxe s.l. Prestations de Services n'était due que lorsque le *service* rémunéré avait été *rendu en France*. On pourrait discuter sur le sens exact de cette formule en matière de redevances; le fait est que l'Administration française ne se croyait pas autorisée à taxer les donneurs de licences établis ou domiciliés à l'étranger. [1])

Mais l'Art. 2 de la loi 54-404, du 10 Avril 1954, a complètement modifié — avec effet à partir du 1er Juillet 1954 — le critère de la localisation. Sont désormais taxables les rémunérations des services qui ont été *utilisés ou exploités en France*. Dès lors, les redevances payées à des bénéficiaires établis à l'étranger sont en principe taxables, s'il s'agit de brevets, formules etc. exploités en France.

c) Bien entendu, nombre de ces nouveaux contribuables invoquaient le bénéfice de la „qualité d'inventeur". L'Administration

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[1]) Ce n'est qu'en fin 1953 (Instr. No. 229 B. du 26 Oct. 1953) que l'Administration française changea brusquement d'avis sur ce point. Il y aurait beaucoup à dire sur les raisons et les circonstances de ce revirement; mais désireux de ne pas surcharger l'exposé d'une situation déjà fort complexe, nous préférons passer sur cet épisode.

française se trouvait alors devant des difficultés inattendues. Il est déjà très difficile de prouver la „qualité d'inventeur", quand il s'agit d'une invention réalisée en France; comment alors juger de la valeur ou de l'authenticité de pièces tendant à prouver les circonstances d'une invention faite à l'étranger?

L'Administration française prit alors une décision catégorique, en déclarant textuellement [1]):

„. . . en l'état actuel de la réglementation, les taxes sur le chiffre d'affaires sont exigibles du concédant étranger du brevet, qu'il en soit exploitant ou l'inventeur. *L'administration fiscale française est, en effet, totalement privée des moyens d'apprécier et de contrôler la nature de l'activité du concédant étranger . . .*"

Par cette prise de position, l'Administration a certainement dépassé le cadre de ses attributions. Elle soumet les concédants étrangers à un *traitement discriminatoire* que n'autorisent ni la législation antérieure, ni la jurisprudence du Conseil d'Etat, ni la loi du 10 Avril 1954 (qui traite de la *localisation*, mais non de la *qualification* de ces opérations). On peut donc considérer cette décision administrative comme *illégale*.

Néanmoins, même si l'on considère que les craintes de l'Administration sont exagérées, les difficultés de preuve qu'elle invoque sont réelles. Tout en rejetant la décision administrative, les contribuables qu'elle frappe ont tout intérêt à chercher un accord sur une procédure qui leur permette d'apporter, à l'Administration française, des preuves incontestables de leur „qualité d'inventeur".

Voilà l'objet des 3 accords que nous venons de citer et que nous allons analyser brièvement par la suite.

II. *Les Accords Conclus.*

a) Les accords conclus par la France avec (dans l'ordre chronologique) la Suisse (10 Févr. 1955), les Etats-Unis (16 Déc. 1955-18 Janv. 1956) et la Suède (21 Févr.-15 Mars 1956) [2]) ont un caractère tout particulier.

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[1]) Rép. Min. du 10 Nov. 1954 — J.O. Déb. Ass. Nat. No. 94, page 4853, Question No. 13126.

[2]) Ces accords n'ont pas été publiés *in extenso*, mais commentés dans les instructions françaises No. 123 B 2/1 (25 Avr. 1955), 41 B 2/1 (5 Mars 1956), 108 B (21 Mai 1956).

Leur but n'est pas de donner de nouveaux avantages aux contribuables de ces trois Etats; ils ne comportent donc, non plus, aucune contre-partie en faveur des contribuables français.

Ils pouvaient alors être conclus par simple entente entre les Administrations respectives, sous forme de procès-verbal ou d'échange de lettres.

Après avoir indiqué les conditions de l'exonération (cette partie comporte notamment des précisions complémentaires tant sur le terme d'*invention* que sur celui d'*inventeur*), ils déterminent la procédure à suivre et les justifications à produire.

Des dispositions spéciales tendent à régler les litiges antérieurs à l'accord.

Fait à retenir, chacun des trois accords comprend un passage qui est à la fois une *clause d'égalité fiscale* et une *clause de la nation la plus favorisée.* [1])

b) Si curieux que cela puisse paraître, ces trois accords, destinés à régler une situation identique par des moyens similaires, diffèrent beaucoup entre eux.

Cela se comprend facilement pour les règles concernant la *procédure à suivre* et les *pièces justificatives à produire;* ces dispositions sont adaptées à la législation interne de chacun des Etats contractants.

Il est plus difficile d'expliquer, par contre, pourquoi les passages destinés à définir les *conditions de l'exonération* sont si différentes d'un accord à l'autre. Il semble que le problème est plus complexe qu'on ne le pensait à l'origine, et que chacun des Etats contractants a présenté une liste de points litigieux au hasard des observations transmises par ses propres contribuables. Il est significatif que c'est l'accord France-Etats-Unis qui est non seulement le plus détaillé, mais encore celui qui stipule le maximum d'avantages au profit des contribuables étrangers.

Heureusement, ces divergences rédactionnelles — du moins en ce qui concerne les conditions d'exonération — sont dépourvues d'intérêt pratique. *La clause de la nation la plus favorisée* (voir

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[1]) „. . . les donneurs suisses (américains, suédois) de licences seront mis au bénéfice de tout avantage plus étendu qui serait accordé par la France aux donneurs de licences français ou étrangers."

supra sous a) a pour effet d'octroyer aux contribuables des autres Etats contractants les droits conférés par l'accord le plus avantageux, qui est — jusqu'à nouvel ordre — celui conclu avec les Etats-Unis.

Malgré cela, toutes les difficultés d'application et d'interprétation n'ont pas disparu. Il semble d'ores et déjà que l'accord franco-américain, si détaillé qu'il soit, ne règle pas certaines situations de fait qui pourraient donner lieu à contestation.

Signalons en passant une autre difficulté qui semble avoir échappé aux rédacteurs des accords: ces textes ne mentionnent que les „donneurs suisses (américains, suédois) de licences", sans préciser, si ces qualificatifs se réfèrent à la *nationalité* ou au *domicile fiscal* des intéressés. (A notre avis, c'est la seconde solution qui serait la plus conforme à la teneur de ces accords).

Nous donnerons ci-après les solutions les plus importantes des accords en question, spécialement — pour les raisons que nous venons de citer — celles de l'accord France — Etats-Unis. Encore sommes-nous obligés de limiter notre exposé à des indications d'ordre général, en priant le lecteur de bien vouloir se référer, pour le détail, aux accords eux-mêmes ou aux commentaires administratifs, publiés par les gouvernements intéressés.

c) *Conditions de l'Exonération: Définition du Terme: „Invention".*

Le terme „Invention" est compris dans un sens très large. Il désigne notamment: „. . . brevetés ou non: les brevets, . . . marques de fabrique, procédés ou formules de fabrication . . . aussi les dispositions nécessaires à l'utilisation pratique de l'invention (know how), à la protection de l'invention et à l'assistance technique indispensable à l'exploitation de l'invention . . ." [1])

D'autre part, l'Accord Franco-Américain comprend expressément, dans l'énumération des „inventions", les *droits d'auteur*, ce qui constitue une nouveauté par rapport non seulement aux autres accords, mais aussi au droit interne français (qui est muet sur ce point).

d) *Conditions de l'Exonération: Définition du Terme: „Inventeur".*

L'Accord Franco-Américain se réfère d'abord à la jurisprudence

[1]) Accord France-Etats-Unis, I., 1.-2., où ces termes sont suivis d'une énumération d'exemples pratiques.

du Conseil d'Etat (voir supra Ia), mais y ajoute certaines précisions particulièrement importantes. Le bénéfice de la ,,qualité d'inventeur'' est ainsi garanti même dans l'hypothèse où

aa) l'invention aurait été réalisée non par les salariés de l'entreprise, mai par certaines tierces personnes (universités, instituts de recherches etc.), à condition qu'il y ait contrat préalable entre l'entreprise et cette tierce personne, [1])

bb) toutes les autres conditions étant remplies, le brevet n'aurait pas été déposé sous le nom du donneur de licences, [2])

cc) l'invention aurait été réalisée par une société à laquelle le donneur de licences se serait substitué par fusion, scission etc. [3])

Des mesures de bienveillance (mais il ne s'agit pas ici de règles impératives) sont prévues dans les hypothèses où l'invention aurait été réalisée par une entreprise appartenant au même ,,concern'' que le donneur de licences, et dans les ,,cas mixtes''. [4])

e) *Procédure de Justification.*

aa) *Suisse, Suède.*

La preuve de la ,,qualité d'inventeur'' est apportée par la présentation d'une déclaration spéciale (dont le modèle est annexé à l'Accord) et dont l'exactitude sera certifiée par la *Chambre de Commerce* régionale du siège de l'entreprise.
Dans le cas où l'Administration française conserverait néanmoins des doutes sur l'exactitude d'une telle déclaration émanant d'un contribuable *suisse,* le litige serait réglé par entente entre les deux administrations fiscales. Cette dernière clause ne se retrouve pas dans l'accord franco-*suédois;* en revanche, le gouvernement suédois a expressément déclaré que les Chambres de Commerce suédoises ont le *caractère de services publics.*

bb) *Etats-Unis.*

En raison du caractère non-officiel des Chambres de Commerce américaines, on ne pouvait envisager une procédure analogue

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[1]) ibidem I., 3a).
[2]) ibidem I., 3c).
[3]) ibidem I., 3d).
[4]) ibidem I. 3b) et 4.

à celle instituée pour les deux autres pays.
Il fut donc stipulé [1]) que la preuve de la „qualité d'inventeur sera fournie directement par les intéressés, par une déclaration sous serment (selon modèle annexé) et la production de pièces justificatives, certifiées conformes „par une autorité américaine compétente".
En cas de difficultés, l'Administration française pourrait s'adresser au „Treasury Department".

III. *Situation des Autres Contribuables Etrangers.*

Quelle est, dans ces conditions, la situation des donneurs étrangers de licences dont les gouvernements n'ont pas conclu des accords appropriés avec la France?

En droit strict ils pourraient, à notre avis, refuser le paiement de la Taxe s.l. Prestations de Services, s'ils sont en mesure de justifier de la „qualité d'inventeur", telle qu'elle a été définie par le Conseil d'Etat (voir supra Ia).

Mais les difficultés matérielles de cette justification sont telles que ces contribuables ont tout intérêt à s'appuyer sur un accord similaire, comportant, de préférence, l'intervention de leur Chambre de Commerce ou d'une autre autorité de leur propre pays.

Un autre avantage consisterait dans le fait qu'un tel accord, contrairement à la jurisprudence du Conseil d'Etat, réglerait (directement ou par l'effet de la clause de la nation la plus favorisée) certains points de détail qui, autrement, pourraient donner lieu à contestation (voir supra IIc) et d)).

Certes, la conclusion de tels accords est affaire des gouvernements, et non des contribuables. Ces derniers devraient donc s'adresser, avant tout, à leur propre Administration. Mais celle-ci n'aurait aucune raison de refuser son concours, étant donné qu'il s'agit d'accords purement *techniques* qui ne comportent aucune contre-partie au profit des contribuables français, donc aucune perte de recettes pour les Etats contractants.

Il semble certain, d'autre part, que l'Administration française acceptera volontiers des accords de ce genre avec tous les Etats qui en feraient la demande.

[1]) ibidem I. 5.

II

SURVEY OF BRITISH TAX LEGISLATION

by N. D. Ashley, London

The House of Commons never grants the government of the day power to levy income tax for more than one period of twelve months at a time. The operation of income tax law from year to year is prolonged by establishing in each annual "Finance Act" the rate at which tax shall be levied (the "standard rate") for the current year. The government invariably avails itself of the opportunity offered by the necessity for the Finance Act to put before the House of Commons all the amendments and improvements that its experience has shown to be desirable in order that the House may pass them into law if it agrees with them. Last year (Mr. Butler's last budget) was a poor year for legislation; this year (Mr. MacMillan's first budget), while not a vintage year, has produced quite a good crop.

Under the United Kingdom system a certain amount of the income of an individual (representing his "personal allowances") is free of income tax altogether. The next £360 of his income is taxed on an intermediate scale. All the remainder of his income is taxed at the standard rate. The profits of all corporations and companies are subject to income tax at the standard rate. Last year the standard rate was 42½%, and this year's Finance Act has not changed the rate. On top of the tax just described a second kind of income tax; called surtax, is levied on incomes (before deducting personal allowances) which exceed £2000 p.a. It is probable that last year's rates of surtax will continue to apply this year.

Mr. MacMillan's main income tax changes are:

1. Employment — British abroad, foreigners in the United Kingdom. The statutory words on which the whole scheme of taxation under these heads rested were mostly more than a century old, and many of the decisions on them were given many years ago. There were consequently many anomalies. From now on the vital question is, where are "the duties of the office or employment performed"? If "wholly" outside the U.K. no tax will be payable in the U.K. Business visits to the U.K. for purpose merely incidental to the "wholly abroad" employment will not nullify the exemption; and persons working wholly outside can now keep a dwelling place in the U.K., house their family there, and visit them from time to time without bringing themselves within the U.K. tax orbit. The foreigner coming to the U.K. and taking employment with a U.K. employer who pays him, is liable to income tax from the day he starts work. If, however, he is paid by a foreign employer and his visit is not so prolonged as to constitute "residence" he is probably not liable to tax. A foreigner working in the U.K. who can show that he is not domiciled in England (and "domicile" means in this connection domicile according to English law, not, for instance, to French *domicile fiscale*), is not taxable in regard to the salary paid to him by a foreigner for work he does outside U.K. (nor in regard to his "private" income abroad). Double taxation arrangements with particular countries might modify what has just been said.

2. Depreciation. Most countries since the war have made disguised loans

to industry in the shape of excessive allowances (for tax purposes) for depreciation on newly-constructed fixed assets. The effect of providing excessive depreciation is to earmark a larger proportion of the profits, and hence eventually of the cash resources of the business, for retention in the business than would otherwise be the case. If the fiscal authorities accept the excessive depreciation for tax purposes they are in effect advancing the money, that they have not taken for taxes, to the taxpayer. They either get the money back later on when the taxpayer has exhausted his claim to write off the value of the fixed asset sooner than he would otherwise have done; or they do not get it back at all, if they do not require that the amount written off should be accounted for as depreciation allowed (this was the case with the U.K. "investment" allowances; while "initial" allowances had to be accounted for). The scale of such allowances is clearly closely linked with the government's economic policy and may change suddenly (there have in fact been six changes in the U.K. since 1944). Last February the Government decided to reverse its policy of encouraging capital expenditure generally. It withdrew, with immediate effect, all investment allowances, except for ships, and went back to initial allowances of 10% for buildings and 20% for machinery in the year the asset is acquired. These changes now apply by virtue of the Finance Act, 1956 to the current year. This is, of course, only the general picture; there are numerous small exceptions.

3. Pensions. As a general theoretical proposition the U.K. income tax authorities agree that the income a man earns ought to be taxed only once in his lifetime; if he earns it and puts it by to spend in his old age, both processes ought not to be taxed. Legislation over the past thirty years has effectively secured that the employee of an employer who has a "pensions scheme" can put money by in his earning years free of tax and only pay tax on it when it comes back to him in his old age in the form of a pension. This year Mr. MacMillan took the big step forward of setting up a parallel scheme of tax-free saving for those wage-earners who for one reason or another could not enter a "scheme", and — much more important — for all self-employed persons, particularly for those engaged in the liberal professions. The general idea is that such persons will be allowed to treat whatever sums they decide to pay to an insurance company by way of annual premium, so far as these sums are within 10% of the earned income for the year, as tax-free. When at the age of, say, 60 the insurance company pays them a pension for the rest of their lives, they will have to pay tax on it.

Insurance has been encouraged in two other ways. An insurance company that engages in pension business of this kind will not pay income tax on the income it is accumulating from its investments held as backing for pensions: If a person decides to buy a pension (or an annuity as it is more generally called) by paying down a lump (capital) sum, when his pension is paid to him, that portion of the sum which is considered to represent a return of the capital he spent in the purchase will not be subject to income tax.

Income tax is a tax on the income of individuals and was operating before limited companies were heard of. When in the sixties of the last century they were confronted with the problem of taxing associations of persons having limited liability the tax authorities treated such associations as though they were partnerships. The whole income of the company was, of course, liable to tax, but the amount of that income which was distributed (by way of dividend) was looked on as the shareholders' income (as though they had been simply credited with it in the books). Just before the last war it was decided to raise a special annual contribution towards the cost of rearmament. In the war this contribution became "the profits tax", a tax based on the profits of a company, and levied on companies only, having most of the characteristics of the corporation profits tax of other countries, and in

particular the characteristic that it amounts to a kind of fine for the privilege of trading with limited liability. With the normal corporation profits tax the shareholder is paid a dividend out of profits which have already borne tax and has himself to pay income tax on the dividend he receives. This is regarded usually as an unjustifiably heavy piece of double-taxation and various devices are adopted to relieve the situation, i.e. to reduce the total tax payable. Under the U.K. system there is no double-taxation of this kind. The shareholder pays income tax on his share of the profits and the company pays no income tax thereon. It is therefore quite logical for the profits tax not to be reduced because there is a distribution of profits, but, in accordance with the Government's policy of encouraging profits being ploughed back into the business, to be heavily increased. The rates were 2½% on the undistributed portion of the profits and 27½% on the distributed portion. Under the recent Finance Act they have been increased to 3% and 30% respectively.

The other changes in the law made in the recent Finance Act are of a very technical character.

When a person dies his estate (i.e. the totality of his property "which passes on death") is subject to estate duty, which is, in the case of large fortunes, a very heavy tax indeed (property over £1,000,000 is taxed at the rate of 80%). The persons who receive the property pay no tax at all; the tax is purely on the estate. It is thus a most complicated tax, and the amendments made this year are, with one exception, mitigations of highly technical rules which cannot be explained here. The exception is that the authorities have taken power to accept works of art in lieu of cash for the duties, if they see fit to do so.

24 Sept. 1956.

DIE STEUERSENKUNGEN 1956
IN WEST-DEUTSCHLAND

Nach einem langen erbitterten Tauziehen zwischen Bund und Ländern ist das Steuersenkungsprogramm 1956, das den Steuerzahlern eine Entlastung von jährlich fast 3 Milliarden DM bringen soll, Wirklichkeit geworden, nachdem Bundestag und Bundesrat am 27. 9. bezw. 5. 10. 1956 den Vorschlägen des Vermittlungsausschusses zugestimmt haben. Die die Steuersenkungen beinhaltenden vier Gesetze, die Steuererleichterungen auf dem Gebiet der Abgabe „Notopfer Berlin", der Einkommensteuer, der Umsatzsteuer und der Gewerbesteuer bringen, sind am 6. Oktober 1956 verkündet worden und am 7. Oktober 1956 in Kraft getreten. Wir bringen im folgende einen Überblick über die damit eintretenden steuerlichen Änderungen.

1. *Erleichterungen auf dem Gebiet der Abgabe „Notopfer Berlin"*

Durch das Zweite Gesetz zur Änderung des Gesetzes zur Erhebung einer Abgabe „Notopfer Berlin" vom 5. Oktober 1956 sind die Vorschriften über die Erhebung der Abgabe von natürlichen Personen gestrichen worden. Die Abgabe wird demnach künftig nur noch von Körperschaften erhoben. Die Änderungen treten nach Artikel II des Änderungsgesetzes grundsätzlich am 1. Oktober 1956 in Kraft. Der Abzug der Abgabe ist bei Arbeitnehmern erstmals bei Lohnzahlungen zu unterlassen, die für einen nach dem 30. September 1956 endenden Lohnzahlungszeitraum gezahlt werden. Bei sonstigen, insbesondere einmaligen Bezügen unterbleibt der Abzug wenn die Bezüge dem Steuerpflichtigen nach dem 30. September 1956 zufliessen.

Wird für 1956 eine Veranlagung durchgeführt, so beträgt die zu veranlagende Abgabe der natürlichen Personen drei Viertel des sich aus der Notopfertabelle ergebenden Jahresbetrags der Abgabe.

Das Entsprechende gilt, wenn für 1956 ein Notopfer-Jahresausgleich durchgeführt wird.

Mit dieser Massnahme hat sich die Auffassung des Bundesrates durchgesetzt, der, weil eine Senkung der Einkommensteuer zu zwei Drittel zu Lasten der Länder gegangen wäre, statt der vom Bundestag beschlossenen Senkung des Einkommensteuertarifs, die in den unteren Einkommenstufen mit 10 v. H. beginnen und sich mit steigendem Einkommen auf ca. 5,5 v. H. verringen sollte, den Wegfall der Abgabe „Notopfer Berlin" für natürliche Personen vorgeschlagen hatte.

2. *Änderungen bei der Einkommensteuer und Körperschaftsteuer*

Durch das Gesetz zur Änderung des Einkommensteuergesetzes und des Körperschaftsteuergesetzes vom 5. Oktober 1956 (Bundesgesetzbl. I S. 781) ergeben sich folgende Änderungen:

Weitere Begünstigung der Vertriebenen-Wirtschaft

Die Vergünstigungen für den Personenkreis der Vertriebenen, Flüchtlinge und Verfolgten (Bewertungsfreiheit für bewegliche Wirtschaftsgüter — § 7a EStG —, Bewertungsfreiheit für Fabrikgebäude, Lagerhäuser und

landwirtschaftliche Betriebsgebäude — § 7e EStG — und die Steuerbegünstigung des nicht entnommenen Gewinns — § 10a EStG —) sollten nach der derzeitigen Rechtslage am 31. 12. 1956 auslaufen. Da die wirtschaftliche Lage eines grossen Teils der begünstigten Unternehmen, insbesondere solchen der Heimatvertriebenen-Wirtschaft, noch nicht als ausreichend gefestigt angesehen werden kann, ist die Geltungsdauer der bezeichneten Vorschriften um zwei Jahre, also bis einschliesslich 1958, verlängert worden. Materielle Änderungen treten bei diesen Vorschriften nicht ein.

Pauschbeträge für die Benutzung eines Kraftfahrzeugs für Fahrten zwischen Wohnung und Arbeitsstätte

§ 9 Ziff. 4 EStG sieht bisher zur Abgeltung der Aufwendungen für die Benutzung eines eigenen Kraftfahrzeugs zu Fahrten zwischen Wohnung und Arbeitsstätte je einen Pauschbetrag für die Benutzung eines Kraftwagens, eines Motorrades oder Fahrrades mit Motor vor. Diese Einteilung hat wegen der Eingruppierung der Kleinstkraftwagen, Motor-Coupés und Kabinenroller zu Schwierigkeiten geführt, da die Anschaffungs- und Betriebskosten dieser Fahrzeuge weder denen eines Personenwagens noch denen eines Motorrades entsprechen. Zur Beseitigung dieser Schwierigkeiten sieht das Änderungsgesetz mit Wirkung vom 1. 1. 1957 die Einführung eines besonderen Pauschbetrags für Kleinstkraftwagen vor, der dem Vernehmen nach voraussichtlich auf 0,35 DM je km festgesetzt werden wird. Kleinstkraftwagen im Sinn dieser Vorschrift sind alle drei- und vierrädrigen Kraftfahrzeuge mit einem Hubraum von nicht mehr als 500 ccm.

Erhöhung des Werbungskostenpauschbetrags für Arbeitnehmer

Der bei den Einkünften aus nichtselbständiger Arbeit zu berücksichtigende Pauschbetrag für Werbungskosten wird mit Wirkung vom 1. Januar 1957 von 312 DM um 250 DM auf 562 DM erhöht.

Ausdehnung der Begünstigung von Kapitalansammlungsverträgen

Um die insbesondere im Interesse des Wohnungsbaues vordringliche Spartätigkeit anzuregen, sind die Vorschriften über den Sonderausgabenabzug von Beiträgen auf Grund von Kapitalansammlungsverträgen (§ 10 Abs. 1 Ziff. 4 EStG) wesentlich geändert worden. An die Stelle der bisher geltenden Festlegungsfristen von 7 (bei unter 50 Jahre alten Steuerpflichtigen: von 10) Jahren ist eine *Festlegungsfrist von drei Jahren* getreten. Damit ist insoweit der bis zum 31. 12. 1954 geltende Rechtszustand wiederhergestellt worden. Ausserdem wurde der Zeitraum, in dem Beiträge auf Grund von Kapitalansammlungsverträgen als Sonderausgaben abgezogen werden können, bis einschliesslich 1958 verlängert. Bei Sparverträgen mit festgelegten Sparraten sind auch die nach dem 31. 12. 1958 geleisteten Beiträge abzugsfähig, wenn mindestens die erste Einzahlung vor dem 1. Januar 1958 geleistet worden ist. Die Regelung gilt erstmals für Aufwendungen, die auf Grund von nach dem Inkrafttreten des Änderungsgesetzes abgeschlossenen Verträgen geleistet werden.

Weniger erfreulich ist, dass auch das *Kreditaufnahmeverbot wieder eingeführt* worden ist. Wie schon früher, ist die Abzugsfähigkeit von Versicherungsbeiträgen, Beiträgen an Bausparkassen und Beiträgen auf Grund von Kapitalansammlungsverträgen davon abhängig, dass die Aufwendungen weder unmittelbar noch mittelbar in wirtschaftlichem Zusammenhang mit der Aufnahme eines Kredits stehen. Diese Missbrauchsvorschriften haben nur in solchen Fällen keine Geltung, in denen Versicherungsbeiträge und Bausparkassenbeiträge nach Ablauf von fünf Jahren seit dem Vertragsabschluss in der ursprünglich vereinbarten Höhe laufend und gleichbleibend geleistet werden. Diese Regelung gilt für alle nach dem Inkrafttreten des Änderungsgesetzes geleisteten Sonderausgaben.

Der Zeitraum, in dem bei *Versicherungen gegen Einmalbeitrag* nach § 10 Abs. 2 Ziff. 1 EStG eine Nachversteuerung durchzuführen ist, wurde für nach dem Inkrafttreten des Änderungsgesetzes abgeschlossene Verträge auf fünf Jahre herabgesetzt.

Von bezonderem Interesse dürfte sein, dass die *Sonderausgabenhöchstbeträge* für die Veranlagungszeiträume 1956 bis 1958 für den Steuerpflichtigen und seine Ehefrau von je 800 DM auf je 1000 DM erhöht worden sind. Für die über 50 Jahre alten Steuerpflichtigen erhöhen sich die Höchstbeträge entsprechend von je 1600 DM auf je 2000 DM. Für diese Steuerpflichtigen kommt als weitere Massnahme hinzu, dass die doppelten Höchstbeträge nunmehr von allen Steuerpflichtigen geltend gemacht werden können, deren steuerpflichtiges Vermögen 60 000 DM (bisher 40 000 DM) nicht übersteigt. Auch diese Massnahme ist vorerst auf die Veranlagungszeiträume 1956 bis 1958 beschränkt.

Als *Übergangsmassnahme* für die laufenden Kapitalansammlungsverträge mit einer Sperrfrist von 7 bezw. 10 Jahren ist zugelassen worden, dass diese Verträge auf eine Laufzeit von drei Jahren umgestellt werden. Wie bezüglich der Nachversteuerung zu verfahren ist, wenn bei einem Sparvertrag mit festgelegten Sparraten Einzahlungen über einen Zeitraum von drei Jahren hinaus geleistet werden, wird noch durch eine Rechtsverordnung geregelt werden.

Welche Verträge künftig als steuerbegünstigte Kapitalansammlungsverträge anerkannt werden, wird in aller Kürze durch eine Rechtsverordnung geregelt werden.

Änderung der Vorschriften über den Verlustabzug

Die Verluste der fünf vorangegangenen Veranlagungszeiträume können nach § 10d Satz 1 EStG nur dann wie Sonderausgaben abgezogen werden, wenn der Steuerpflichtige den Gewinn nach § 4 Abs. 1 oder § 5 EStG auf Grund ordnungsmässiger Buchführung ermittelt. Satz 2 der Vorschrift machte hiervon bei nichtbuchführenden Winzern eine Ausnahme, die den Gewinn nach § 4 Abs. 1 EStG auf Grund eines beschränkten Vermögensvergleichs ermitteln. Diese unsystematische Ausnahmeregelung ist durch das Änderungsgesetz mit Wirkung vom Veranlagungszeitraum 1957 gestrichen worden.

Änderungen auf dem Gebiet der Ehegattenbesteuerung

Nach § 26 Abs. 3 Satz 2 EStG werden auf Antrag statt der Einkünfte der Ehefrau die entsprechenden Einkünfte des Ehemannes aus der Zusammenveranlagung ausgeschieden, wenn sie niedriger sind. In diesem Fall wird der Ehemann mit den ausscheidenden Einkünften nach der Steuerklasse I besteuert. Auf Antrag der Ehegatten können aber auch die Ehegatten mit den zusammenzuveranlagenden Einkünften nach der Steuerklasse I und der gesondert zu veranlagende Ehegatte nach der nach seinem Familienstand massgebenden Steuerklasse besteuert werden (§ 32a EStG). Diese Wahlmöglichkeiten, die die Ehegattenbesteuerung ausserordentlich erschwert haben, sind mit Wirkung vom Veranlagungszeitraum 1957 beseitigt worden. Von 1957 ab kommt demnach ein Ausscheiden der Einkünfte aus der Zusammenveranlagung nur noch für Einkünfte der Ehefrau in Betracht, die in diesem Fall grundsätzlich nach der Steuerklasse I besteuert wird.

Zur Milderung der wesentlich stärkeren steuerlichen Belastung solcher Ehegatten, bei denen eine getrennte Besteuerung von Einkünften nicht durchgeführt wird, wird vom Veranlagungszeitraum 1957 ab bei der Zusammenveranlagung dieser Ehegatten *ein Freibetrag von 250 DM* jährlich abgezogen (§ 26 Abs. 5 EStG). Bei Arbeitnehmern wird dieser Freibetrag im

Lohnsteuerverfahren berücksichtigt. In welcher Weise das geschehen soll, wird durch die Lohnsteuer-Durchführungsverordnung geregelt werden (§ 39a EStG). Die Gewährung des Freibetrags von 250 DM ist auf die Veranlagungszeiträume 1957 und 1958 befristet.

Der Gesetzgeber betrachtet demnach das Problem der Ehegattenbesteuerung auch mit dieser Massnahme offenbar noch nicht als endgültig gelöst. Er wird sich mit dieser Frage vor Ablauf dieser Frist sicherlich erneut befassen.

Änderung von Tarifvorschriften

Steuerpflichtige mit mehreren Kindern werden mit Wirkung vom 1. 1. 1957 dadurch wesentlich entlastet, dass der *Freibetrag für das zweite Kind* von 720 DM auf 1440 DM heraufgesetzt worden ist. Da der Freibetrag in die Tabelle eingearbeitet ist, werden die Einkommensteuer- und die Lohnsteuertabellen für die Steuerklasse III mit Kinderermässigung für zwei oder mehrere Kinder entsprechend geändert werden.
Steuerpflichtige, denen für die *auswärtige Unterbringung* einer in der Berufsausbildung befindlichen Person Aufwendungen erwachsen, können ab 1. 1. 1957 neben dem Freibetrag von 720 DM für den Unterhalt bzw. neben der Kinderermässigung einen Betrag von 720 DM jährlich (bisher 480 DM jährlich) als aussergewöhnliche Belastung abziehen (§ 33a Abs. 2 EStG).

Steuerermässigung für die *Beschäftigung einer Hausgehilfin* wird vom gleichen Zeitpunkt ab auch Steuerpflichtigen mit nur zwei unter 18 Jahre alten Kindern gewährt. Voraussetzung ist bei verheirateten Steuerpflichtigen, dass die Ehegatten nicht dauernd getrennt leben und beide erwerbstätig sind, bei unverheirateten Steuerpflichtigen, dass sie erwerbstätig sind (§ 33a Abs. 3 EStG).

Zuschläge für Sonntags-, Feiertags- und Nachtarbeit sind vom 1. Januar 1957 ab steuerfrei, wenn der Arbeitslohn im Kalenderjahr 9000 DM (bisher 7200 DM) nicht übersteigt (§ 34a EStG).

Steuerermässigung bei ausländischen Einkünften

Unbeschränkt Steuerpflichtige mit ausländischen Einkünften konnten die im Ausland gezahlte Einkommensteuer bisher nur in der Weise bei der inländischen Besteuerung berücksichtigen, dass die ausländische Steuer in Höhe des nachweislich gezahlten Betrags vom Gesamtbetrag der Einkünfte abgezogen wurde (§ 51 EStDV). An die Stelle dieser Regelung, die sich als unzureichend erwies, tritt mit Wirkung vom 1. 1. 1957 der neu in das Einkommensteuergesetz eingefügte § 34c. Dieser schreibt vor, dass die in einem ausländischen Staat festgesetzte und gezahlte Einkommensteuer auf die deutsche Einkommensteuer anzurechnen ist, die auf die Einkünfte aus dem ausländischen Staat entfällt. Die Regelung gilt nur, wenn die Einkünfte aus einem ausländischen Staat stammen, mit dem kein Doppelbesteuerungsabkommen besteht. Durch eine Ergänzung des Körperschaftsteuergesetzes ist vorgeschrieben worden, dass diese Regelung für juristische Personen entsprechend anzuwenden ist (§ 19a KStG). Die näheren Einzelheiten zu dieser Neuregelung werden durch die Einkommensteuer-Durchfürungsverordnung geregelt werden.

Beschränkt steuerpflichtige Einkünfte

An den § 49 EStG ist mit Wirkung vom 1. 1. 1957 ein neuer Absatz 2 angefügt worden, nach dem Einkünfte steuerfrei sind, die ein Steuerpflichtiger mit Wohnsitz oder gewöhnlichem Aufenthalt in einem fremden Staat durch den Betrieb eigener oder gecharterter Schiffe oder Luftfahrzeuge aus einem Unternehmen bezieht, dessen Geschäftsleitung sich in einem ansländischen Staat befindet. Voraussetzung für diese Steuerbefreiung ist, dass der aus-

ländische Staat seinerseits die Einkünfte deutscher Schiffahrts- und Luftfahrtunternehmen von seiner Einkommensteuer freistellt.

3. *Erleichterungen auf dem Gebiet der Gewerbesteuer*

Bei der Gewerbesteuer wird am 1. 1. 1957 eine Änderung des § 11 Abs. 2 GewStG wirksam. Bei der Ermittlung der Steuermesszahlen für den Gewerbeertrag treten von diesem Zeitpunkt ab an die Stelle der Stufen von je 1200 DM nunmehr Stufen von je 2400 DM. Das beteutet, dass künftig Gewerbetreibende mit einem Gewerbeertrag bis zu 2400 DM gewerbeertragsteuerfrei bleiben werden und dass die Steuermesszahl von 5 v. H. erst für den 12 000 DM (bisher 6000 DM) übersteigenden Teil des Gewerbeertrags zugrunde zu legen ist. Diese durch das Gesetz zur Änderung des Gewerbesteuergesetzes vom 5. Oktober 1956 (BGBl. I S. 786) getroffene Massnahme hat das Ziel, insbesondere die kleinen und mittleren Gewerbetreibenden zu entlasten.

4. *Erleichterungen auf dem Gebiet der Umsatzsteuer*

Zur weiteren Entlastung der selbständigen Unternehmerschaft ist durch das Siebente Gesetz zur Änderung des Umsatzsteuergesetzes vom 5. Oktober 1956 (Bundesgesetzbl. I S. 787) auch auf dem Gebiet der Umsatzsteuer eine Steuererleichterungsmassnahme getroffen worden. Sie besteht darin, dass Unternehmer, die im laufenden Kalenderjahr einen Gesamtumsatz von nicht mehr als 80 000 DM haben von ihren steuerpflichtigen Umsätzen einen Umsatzbetrag von 8000 DM absetzen können. Hat der Unternehmer Umsätze, die verschiedenen Steuersätzen unterliegen, so ist der Abzug jeweils von den dem höchsten Steuersatz unterliegenden Umsätzen vorzunehmen. In Fällen, in denen die 80 000-DM-Grenze geringfügig überschritten wird, wird die Besteuerung durch Rechtsverordnung so gemildert werden, dass auf die volle Besteuerung stufenweise übergeleitet wird.

Diese Regelung gilt grundsätzlich erstmals für 1957. Für 1956 ist jedoch eine Überleitungsregelung in der Weise vorgesehen, dass Unternehmer, die in der Zeit vom 1. 10. bis zum 31. 12. 1956 einen Gesamtumsatz von nicht mehr als 20 000 DM haben, einen Umsatzbetrag von 2000 DM abziehen können. Für die Inanspruchnahme dieser Vergünstigung für 1956 ist die Höhe der Umsätze in der Zeit vom 1. 1. bis zum 30. 9. 1956 unerheblich. Die neue Vergünstigung bedeutet im günstigsten Fall eine Umsatzsteuerermässigung von jährlich 320 DM, für 1956 von 80 DM.

Source: *Der Betrieb*, 10. 10. 1956.

II

SURVEYS OF TAX LEGISLATION
APERÇUS DE LEGISLATION FISCALE

AUSTRIA *Period from September 1st until October 31st, 1956*

No changes.

BELGIUM *Period from September 1st until October 31st, 1956*

Généralités

Arrêté royal du 12 septembre 1956 complétant l'arrêté royal du 23 juillet 1954 déterminant les conditions et modalités d'application de la loi du 1er juillet 1954 apportant des aménagements fiscaux destinés à favoriser les investissements productifs,
Moniteur Belge, Sept. 21 st. 1956, No. 265, p. 6252

Taxes assimilées au timbre

Arrêté royal du 28 septembre 1956 modifiant l'arrêté royal du 11 mars 1953 majorant le taux de la taxe de transmission à l'importation.
M.B. 30.9.56, Nr. 274, p. 6543.

Arrêtés royaux du 23 octobre 1956 modifiant le Code et le règlement général sur les taxes assimilées au timbre. M.B. 24.10.56. Nr. 298, p. 7106.

Arrêté royal du 23 octobre 1956 modifiant le règlement général sur les taxes assimilées au timbre, p. 7252.

Arrêté ministriel du 25 octobre 1956 relatif au régime fiscal du tabac, p. 7253.
M.B. 30.10.56, No. 303-304.

FRANCE *Period from September 1st until October 31st, 1956.*

Généralités

Décret No. 56-880 du 3.9.56 relatif à l'émission d'un emprunt national 5 p. 100 amortissable en quinze ans.
J.O. 5.9.56, Nr. 206, p. 8448.

Arrêté du 5.9.56 relatif au prix d'émission des emprunts prévus par le décret No. 53-709 du 9 août 1953 et le décret No. 55-632 du 20 mai 1955.
J.O. 6.9.56, Nr. 207, p. 8492.

Arrêté du 8.10.1956 portant création d'une commission chargée de la revision des taxes parafiscales.
J.O. 12.10.56, Nr. 238, p. 9739.

Impôts directs

Tableau des éléments retenus pour le calcul des bénéfices agricoles forfaitaires imposables au titre de l'année 1955 (revenus de 1955) (troisième tableau).
J.O. 19.10.56, Nr. 244, p. 10023.

Décret No. 56-1091 du 25.10.56 modifiant le decret No. 53-250 du 14 mars 1953 fixant, en application des dispositions de l'article 43 de la loi No. 53-79 du 7.2.53, les conditions de constitution, par les entreprises de recherches et d'exploitation d'hydrocarbures, d'une provision pour reconstitution des gisements, ainsi que le régime fiscal de cette provision.
J.O. 29 & 30.10.56, Nr. 253, p. 10370.

Taxes de consommation

Décret No. 56-1054 du 19.10.56 portant réduction temporaire du tarif de la taxe unique sur les vins.
J.O. 20.10.56, Nr. 245, p. 10086.

Taxe sur le chiffre d'affaires.

Décret No. 56-1076 du 12.10.56 relatif aux formalités requises pour bénéficier de l'exonération des taxes sur le chiffre d'affaires en matière d'exportation.
J.O. 26.10.56, Nr. 250, p. 10276.

Droits de douane.

Décret No. 56-872 du 1er septembre 1956 portant réduction provisoire des droits de douane d'importation applicables à certaines catégories d'aciers.
J.O. 2.9.56, p. 8389 Nr. 204.

Décret No. 56-875 du 3.9.56 pris en application de l'article 1er de la loi No. 56-639 du 30 juin 1956 et relatif à l'institution d'une taxe différentielle sur les véhicules à moteur.
J.O. 3.9.56, Nr. 205, p. 8417.

Décret No. 56-876 du 3.9.56 pris en application de l'article 1er de la loi No. 56-639 du 30 juin 1956 et relatif à l'institution d'une taxe sur les voitures de tourisme d'une puissance fiscale supérieure à 16 CV.
J.O. 3.9.56, Nr. 205, p. 8418.

Décret No. 56-877 du 3.9.56 pris en application de l'article 1er de la loi No. 56-639 du 30 juin 1956 et relatif à l'institution d'une taxe annuelle sur les véhicules de tourisme des sociétés.
J.O. 3.9.56, Nr. 205, p. 8418.

Décret No. 56-893 du 6.9.56 portant suspension provisoire des droits de douane d'importation applicables aux animaux de l'espèce bovine destinés à la boucherie et aux viandes fraîches ou réfrigérées provenant de ces animaux
J.O. 8.9.56, Nr. 209, p. 8547.

Décret No. 56-965 du 28.9.56 portant suspension provisoire du droit de douane d'exportation applicable aux déchets de peaux de mouton brutes, non tannées, et aux lobes d'oreilles de boeuf.
J.O. 29.9.56, Nr. 227, p. 9262.

Décret No. 56-966 du 28.9.56 portant réduction provisoire du droit de douane d'importation applicable à l'alcool octylique.
J.O. 29.9.56, Nr. 227, p. 9262.

Décret No. 56-974 du 28.9.56 portant suspension provisoire du droit de douane d'importation applicable aux oignons.
J.O. 30.9.56, Nr. 228, p. 9294.

Décret No. 56-975 du 28.9.56 portant suspension provisoire du droit de douane d'importation applicable aux aulx.
J.O. 30.9.56, Nr. 228, p. 9294.

Décret No. 56-976 du 28.9.56 portant suspension provisoire, dans la limite d'un contingent, des droits de douane d'importation applicables à l'huile d'olive brute, épurée ou raffinée.
J.O. 30.9.56, Nr. 228, p. 9295.

Arrêté du 28.9.56 relatif au contingent d'huile d'olive brute, épurée ou raffinée admissible en exonération du droit de douane d'importation jusqu'au 15 novembre 1956.
J.O. 30.9.56, Nr. 228, p. 9295.

Décret No. 56-991 du 4.10.56 portant suspension, jusqu'au 31 décembre 1957, du droit de douane d'importation applicable au coke imprégné d'iodure d'argent.
J.O. 5.10.56, Nr. 232, p. 9479.

Arrêté du 10 octobre 1956 fixant les conditions d'application aux stocks

de produits pétroliers dédouanés de majorations des taux de la taxe intérieure de consommation résultant du décret No. 56-776 du 4 août 1956.
J.O. 18.10.56, Nr. 243, p. 9990.

Divers

Arrêté du 9.10.56 fixant la liste des véhicules spéciaux exonerés de la taxe differentielle sur les véhicules à moteur, p. 10163.

Arrêté du 19.10.56 portant application des décrets No. 56-875 et 56-876 du 3.9.56 relatifs à l'institution d'une taxe différentielle sur les véhicules à moteur et d'une taxe sur les voitures de tourisme d'une puissance fiscale supérieure à 16 CV. p. 10165.

Arrêté du 22.10.56 fixant le taux de la taxe sur les carburants destinée au financement des travaux routiers dans les departements d'outre-mer
J.O. 24.10.56, No. 248, p. 10210.

Arrêté du 18.9.56 portant approbation d'un arrêté du préfet de la Réunion réglant les détails d'application à la Réunion de l'augmentation de certains tarifs de droits de timbre résultant du décret No. 56-662 du 6 juillet 1956.
J.O. 22.9.56, Nr. 221, p. 8960.

GERMANY *Period from September 1st., until October 31st.*, 1956

Equalization of burdens law

Neuzehnte Durchführungsverordnung über Ausgleichabgaben nach dem Lastenausgleichsgesetz, vom 31. August 1956.
BGBl. I, Sept. 5th, 1956, Nr. 42, p. 768.

Direct taxes

Gesetz zur Änderung des Einkommensteuergesetzes und des Körperschaftsteuergesetzes, vom 5. Oktober 1956.
BGBl. I, October 6th, 1956, Nr. 44, p. 781.
Zweites Gesetz zur Änderung des Gesetzes zur Erhebung einer Abgabe „Notopfer Berlin", vom 5.10.56.
BGBl. I, October 6th, 1956, Nr. 44, p. 785.

Turnover tax

Gesetz zur Änderung des Umsatzsteuergesetzes vom 5.10.56.
BGBl. I, October 6th, 1956, Nr. 44, p. 786.
Siebentes Gesetz zur Änderung des Umsatzsteuergesetzes vom 5.10.56.
BGBl. I, October 6th, 1956, Nr. 44, p. 7787.

NETHERLANDS *Period from September 1st until october 31st* 1956.

Conventions

Enforcement of the treaty between the Netherlands and France for the avoidance of double taxation in the case of income taxes and settlement of some other tax problems. December 30th, 1949. Ned. Stcrt., September 18th 1956, Nr. 182, p. 3.

Sales tax

Exemption of import duties and sales tax to goods in regard of pedagogy, science or culture.
Ned. Stcrt., October 22, 1956, Nr. 206, p. 8.

Excise taxes

Executory decision of section 5 § 3 of the Tobacco Tax Act.
Ned. Stcrt., September 7th, 1956, Nr. 175, p. 12.

Customs

See under sales tax.

MISCELLANEOUS — FAITS DIVERS

Defence taxes in the Middle East

With the aim to collect, together with the donations given to the arms funds, an amount of I. £75 m. to finance the purchase of arms and equipment and the construction of defences and shelters, a Defence Levy, has been imposed.

The levy is divided into 2 parts:

a) a direct levy on income

b) a number of indirect charges.

ad a. Every person shall pay on his income in the year 1956 defence levy as follows:

On any pound of the first	I£.	2.100	38 pr.
On any pound of the next	I£.	300	43 pr.
On any pound of the next	I£.	600	48 pr.
On any pound of the next	I£.	1.000	53 pr.
On any pound of the next	I£.	1.000	58 pr.
On any pound of the next	I£.	5.000	66 pr.
On any pound of the next	I£.	10.000	74 pr.
On any pound of the next	I£.	10.000	90 pr.
On any pound of the next	I£.	20.000	98 pr.
On any additional pound			114 pr.

It is determined that any person who made contributions to the Public Committee for the Arms Funds shall be credited with the sum donated from the Defence Levy.

A person whose income in 1956 has not exceeded I£. 1.200 and also an individual with at least one child whose income as above has not exceeded I£. 1.800 shall be exempt from the payment of the Defence Levy.

Any individual who during 1956 had children wholly supported by him who had not yet completed 20 years of age shall be credited with I£. 5.— for each of the first three children and with I£. 10.— for each additional child from the Defence Levy to which he is chargeable.

An individual who lost 30% or more but less than 50% of his earning power as a consequence of war injuries shall have the Defence Levy with which he is chargeable reduced by 25% prior to any credit. An individual who lost 50% or more of his earning capacity as above shall have the Defence Levy to which he is chargeable reduced by 50% prior to any credit.

A person who was independent in 1956 shall pay an advance on account of the defence levy to which he is chargeable under sect. 5. The advance shall be paid on his income during 1953 as follows:

On any pound of the first	I£. 2.100	of his income	47 pr.
On the next	I£. 300.—		53 pr.
On the next	I£. 600.—		59 pr.
On the next	I£. 1.000.—		66 pr.
On the next	I£. 1.000.—		72 pr.
On the next	I£. 5.000.—		82 pr.
On the next	I£. 10.000.—		92 pr.
On the next	I£. 10.000.—		113 pr.
On the next	I£. 20.000.—		123 pr.
On any additional pound			143 pr.

A person who was independent in 1956 and who had no income in 1953 shall pay the advance on the basis of his estimated income in 1956.

A person who was independent in 1956 and who was an employee in 1953 has to submit to the Director a declaration of his income in 1953, as determined in regulations.

ad b. Then is levied:

1. a defence levy on amusement tickets
2. a defence levy on wireless receivers
3. a defence duty on telephones
4. a defence tax on beer
5. a defence tax on wine
6. a defence tax on soft drinks
7. a defence levy on methylated alcohol for perfume production
8. a defence levy on cigarettes, cigars, tombac and tobacco
9. a defence levy on gas
10. a defence levy on electricity
11. a defence levy on electrical appliances
12. a defence levy on private cars

EGYPT

277/3 juillet 1956

Il est établi un impôt complémentaire pour la défence a) au taux de 3.5% du loyer annuel pour les terres agricoles assujettis à l'impôt foncier b) au taux de 2.5% du loyer annuel pour les immeubles assujettis à l'impôt sur la propriété bâtie.

Cet impôt est perçu avec les termes de l'impot principal exigible et ce à partir du 1er juillet 1956, proportionnellement à l'impôt principal et selon ses dispositions.

L'impôt est, en ce qui concerne les terres agricoles, à charge exclusive du cultivateur s'il est propiétaire, bénéficiaire ou locataire, et à charge du cultivateur et du propriétaire si l'exploitation de la terre se fait par métayage.

En ce qui concerne les propriétés bâties construites avant le 1er janvier 1944, et soumises aux dispositions de la loi sur le bail de locaux, l'impôt est à la charge du locataire ou de l'occupant de l'habitation. En dehors de ce cas l'impôt est à la charge du contribuable principal, le tout en tenant compte des périodes pendant lesquelles les lieux sont vacants, lorsque la vacance sera établie.

L'impôt pour la défense est établi:

(1) au taux de 3½% sur l'assiette de chacun des impôts suivants:
(a) Impôt sur les revenus des capitaux mobiliers;
(b) Impôt sur les bénéfices commerciaux et industriels;
(c) Impôt sur les bénéfices des professions non commerciales, édictés par les livres I et II et le Titre II du Livre III de la loi n. 14 de 1939 (loi établissant un impôt sur les revenus des capitaux mobiliers, sur les bénéfices commercieux et industriels et sur le revenu du travail)

(2) au taux de 1% sur les 500 premières livres de l'assiette anuelle et au taux de 2% sur tout surplus, et ce sur l'assiette de l'impôt sur les traitements, salaires, indemnités et pensions établi en vertu du Titre I du Livre III de la loi n. 13 de 1939.

L'impôt est applicable sur les traitements, salaires, indemnités et pensions à partir du mois de juillet 1956.

Sont exemptés de cet impôt les ouvriers et employés à la journée visés par l'article 63 (ter) de la loi susmentionnée si le salaire journalier n'excède pas P.T. 60.

(3) Aux taux suivants, et ce en ce qui concerne l'assiette de l'impôt général sur le revenue établi par la loi n. 99 de 1949 (loi établissant un impôt général sur le revenu).

2% sur les premières 2.500 livres du revenu assujetti à l'impôt;
3% sur les 1.500 livres suivantes;
5% sur les 10.000 livres suivantes;
7% sur les 15.000 livres suivantes;
10% sur tout surplus.

Les fractions de livre dans le revenu total net seront négligées lors de l'application de ces taux.

L'impôt est applicable à partir des revenus de l'année 1956.

L'impôt complémentaire est perçu en même temps et dans les délais prévus pour les impôts principaux.

ARGENTINA

Capital gains tax

A decree was issued on 30th August establishing the detailed regulations for the practical enforcement of parts of Decree No. 4,073 of 1st March 1956 on the taxation of 'unjustified' capital gains or increases in estate. The new decree requires all registered tax-payers — with certain exceptions — to make a declaration of their estate (*patrimonio*) in Argentina at 31st December 1955, including bonds, shares and other securities, and adding a statement of their liabilities as constituted by debts. The exceptions allowed for are those tax-payers who have already made a complete statement under the ordinary income-tax regulations and who have no 'unjustified' increase in estate to declare. Statements should also be submitted by persons who, though not registered as tax-payers, have obtained an increase of estate that cannot be justified in ordinary ways.

The statement as regards increases in estates in Argentina is compulsory; the inclusion of assets held abroad is optional, but the subsequent introduction into Argentina of foreign assets not declared under these rulings will render them subject to the ordinary regulations regarding proof of origin.

Those who submit their statements in the correct manner will not be obliged to provide any details regarding the source of 'unjustified' gains, and, once the tax on these gains is paid, they will have no further civil or penal liability regarding infringements of the exchange regulations or of profiteering and speculation laws that they may have committed in the course of making such gains.

To establish 'unjustified' increases in estate, calculations will be based on undeclared gains acquired during the years 1950 to 1955, but these will not include undeclared assets acquired abroad, nor inheritances, bequests and donations, nor those acquired before 1st January 1950. The rate of taxation applicable to 'unjustified' gains is as follows, the amounts due being payable in four quotas.

Up to 150,000 pesos	3 per cent
From 150,000 to 300,000 pesos	4,500 pesos plus 5 per cent on amount over 150,000 pesos
From 300,000 to 500,000 pesos	12,000 pesos plus 7 per cent on amount over 300,000 pesos
Over 500,000 pesos	26,000 pesos plus 10 per cent on amount over 500,000 pesos.

It is further added in the decree that the omission of gains in estate or the exaggeration of debts will be punishable with fines, and the omission of gains derived from infringements of the exchange regulations will make the offender liable for the full penalties for such offences, and all undeclared gains will be subject to income tax or incidental profits tax.

The purpose of this legislation, described by the Minister of Finance as an amnesty, is to encourage the reincorporation into the country's economy of funds that have been withdrawn from it for various reasons.

Source: *Bank of London & South America Ltd., Fortnightly Review*, Sept. 15, 1956.

CEYLON

Tax increases

The Socialist Government of Ceylon, in its first Budget, increased company taxes and estate duties. Taxation on higher income groups was also increased, but duties on some food was lowered to help the middle and working classes.

Mr. Stanley de Zoysa, Finance Minister, addressing the House of Representatives, mentioned Britain and India to justify the increase of 5 per cent in the company rate of income tax and corresponding rises in the tax on those with incomes ranging from about £1,670 to £5,000. Estate duty will be raised on a sliding scale from 2 per cent to 10 per cent.

Import duty on cars costing more than £369 will go up to as much as 90 per cent, but on small family cars the duty will not be more than 35 per cent. A new tax of 2¾d a gallon will be imposed on crude oil.

Source: *Taxation*, September 8th, 1956

New Income Tax Rates Instituted

The Ceylonese Government has revised income tax rates on individual and business incomes for the taxable year beginning April 1, 1956.

Income tax rates for resident and nonresident individuals are based on a sliding scale so that each rate applies only to that part of the income earned in each bracket.

For resident individuals, new income tax rates are as follows (1 rupee = US$ 0.21):

Incomes of
5.000 rupees or under, 10%
5001—10.000 rupees, 20%
10.001—15.000, 25%
15.001—20.000, 30%
20.001—25.000, 35%
25.001—30.000, 40%
30.001—40.000, 45%

Rates for incomes of over 50.000 rupees remain the same.

Previous rates ranged from 10% on income of 6.000 rupees and under to 40% on incomes between 30.001 and 40.000 rupees.

Nonresident individuals will be subject to new income tax rates as follows:

Income of
22.000 rupees or under, 20%
22.001—27.000 rupees, 25%
27.001—32.000, 30%
32.001—37.000, 35%
37.001—42.000, 40%
42.001—52.000, 45%

Rates for incomes over 52.000 rupees remain the same.

Previous rates ranged from 20% on incomes of 24.000 rupees and under to 40% on income of 42.001 to 52.000.

A company incorporated or controlled in Ceylon now is liable to tax at 39% on its entire profits instead of 34% as formerly; a company incorporated outside Ceylon is liable to tax at 45% instead of the former 40%; and a

mutual life insurance company, whether resident or nonresident, is liable to tax at 19½%, whereas it was formerly 17%.

Source: *Foreign Commerce Weekly*, October 15th, 1956

CHILE

Financial reform

Law No. 12,084, known as the Taxation Reform Law, was published in the *Diario Oficial* of 18th August. The new law consists of more than 100 Articles and modifies, in varying degrees, a wide range of taxes, including those on sales of goods, exchange and real estate, and in addition introduces a number of measures affecting government finance, insurance, banking and foreign trade. A brief summary of some of the principal points in the new law is given below.

Sales Tax: With certain specified exceptions all transactions involving a sale or transfer of goods or chattels are subject to a tax of 3 per cent. This tax is raised to 5 per cent when applied to the first sale or transfer of goods manufactured, processed or produced in Chile and to 10 per cent for first and subsequent sales of a number of luxury goods. The tax on a number of other goods, notably cosmetics and petrol, and the direct tax on cigars and cigarettes are fixed at very much higher levels. Liquors and spirits are also subject to a tax on a rising scale according to the sale price.

Real Estate Tax: Real estate taxes due for the second half-year of 1956 will pay a surcharge of 50 per cent, except those with valuations that have been increased since 1st January 1956. Real estate will also be subject to an extra tax during 1956 of 1 per mil on its valuation.

Company Taxation: Facilities are allowed for the revaluation of business assets and for the inclusion therein of assets formerly undeclared (for tax evasion purposes) against a payment of a tax of 4 per cent, all legal penalties being waived.

Chilean companies constituted before 19th April 1932 whose capital is expressed in foreign currency may convert such capital to Chilean currency against payment of a tax of 5 per cent (instead of 2nd Category tax) or the difference, in Chilean currency, between the equivalent of the original capital at the rate of exchange fixed prior to Law No. 5,107 of 19th April 1932 and the free bank rate at the date of conversion. Companies wishing to take advantage of this ruling must do so before 15th December 1956.

Participation and bonuses paid to employees and workmen above those required by law, and provided they are paid in proportion to salaries and wages, may be deducted from profits as expenses, subject to the approval of the *Dirección General de Impuestos Internos*.

The law also establishes heavy fines and prison sentences for those who fail to present balance-sheets to the tax authorities or who present incomplete or incorrect balance-sheets.

As from 1st January 1957, the tax of 15 pesos per U.S.$ at present paid by importers on the value of imports will be reduced to 5 pesos per U.S.$.

A special tax is imposed on imports of motor cars and stationwagons and chassis for these vehicles. The tax, which will be collected by the Customs House, is based on the value c.i.f. Valparaíso and is established at the rate of 200 pesos per U.S.$ on the first U.S.$1,000 or fraction thereof; 300 pesos per U.S.$ on the following U.S.$500; 1,000 pesos per U.S.$ on the next U.S.$500; 1,500 pesos per U.S.$ on the succeeding U.S.$500; and 2,000 pesos per U.S.$ on values over U.S.$2,500. The tax is also payable on cars assembled in Chile, or when other types of vehicles are transformed into motor cars or station-wagons. Vehicles to be used as taxi-cabs are exempt, as also those

imported under diplomatic licence, although in the latter case if the vehicle is sold within two years it becomes liable for the tax.

Stamp Tax: The basic stamp tax is raised by 70 per cent, but two former surcharges totalling 40 per cent of the tax have been removed.

Source: *Bank of London & South America Ltd., Fortnightly Review*, Sept. 15, 1956.

CONVENTION,

United Kingdom and Austria

Command Paper No. 9865 has now been issued which is a convention between the United Kingdom and Northern Ireland and the Republic of Austria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. (The convention has not yet been ratified by the United Kingdom).

Source: *Taxation*, October 20th, 1956.

Ceylon and India Sign Taxation Agreement

Ceylon and India have signed an agreement for relief from or avoidance of double taxation of income, the Ceylon Ministry of Finance announced on September 10.

The agreement was entered into in order that Ceylon might extend to India provisions of certain sections of its Income Tax Law relating to double tax relief granted residents of the British Empire, which ceased to apply when India became a republic in January 1950.

The agreement will become effective when ratified by the respective Governments.

Source: *Foreign Commerce Weekly*, October 15th, 1956.

NETHERLANDS ANTILLES

New Customs Tariff

As from August 1st, 1956 the Netherlands Antilles have introduced a new customs tariff. The new tariff comprises 222 items and is uniform, without establishing any differentiation for certain countries; it has a purely fiscal character.

The average import duty amount to 4.5% but the duties graduate from 0% to 55%.

The new tariff, same as the old one concerns the islands Aruba, Bonaire and Curaçao.

Source: *Berichtendienst Economische Voorlichting*, August 30th, 1956.

NEW ZEALAND

Taxation Revenue: 1955—1956 *and previous years.*

The total taxation receipts for 1955-56 are given in the June *Abstract of Statistics*. They were £234.8 million in 1954-55, an increase of £10.1 million or 4.3 per cent. Individual items of taxation showing notably higher receipts in the year ended March 31, 1956, were: Social security charge, £3.7 million; income tax £2.4 million; Customs revenue, £2.1 million; Road Funds taxation, £1.4 million; and Sales tax £0.8 million greater. The only items to show decreases were Death Duties, which fell by £0.9 million, and duty on instruments, which fell by £0.2 million.

Of the total of £244.8 million taxation receipts, direct taxation on income amounted to £150.6 million or approximately 62 per cent, the same percentage as in the previous year.

Total taxation per head in 1955-56 was £113.17.2 compared with £111.9.9 in 1954-55.

REVENUE FROM TAXATION

	DIRECT TAXES AMOUNT			TOTAL TAXATION AMOUNT	
Year	*Total* £ *m.*	*Per Head of Mean Pop.*	*Percent of Total Tax*	*Total* £ *m.*	*Per Head of Mean Pop.*
1945-46	71.6	41 16 11	62.3	115.0	67 4 0
1948-49	78.4	42 10 3	60.1	130.4	70 14 11
1951-52	121.7	62 2 9	60.7	200.5	102 7 9
1952-53	124.2	61 16 3	62.2	199.8	99 8 3
1953-54	130.5	63 6 4	63.4	206.8	100 6 5
1954-55	144.5	68 12 4	61.5	234.8	111 9 9
1955-56	150.6	70 0 10	61.5	244.8	113 17 2

Source: *The Accountants' Journal* (*N.Z.*), August, 1956.

UNITED KINGDOM

Escaping Taxation

Aviation and Shipping Company — tramp shipping operators — and a group of City financial institutions are considering forming jointly a new shipping company in Bermuda, with the object of escaping the heavy burden of United Kingdom taxation on profits needed for ship replacement

The formation of the new company — which will be called Aviation and Shipping (Bermuda) — is subject to the result of negotiations and discussions going on not only between the possible partners in the project but also with United Kingdom Government departments.

It is understood that Aviation and Shipping and the City finance group wish to be assured that the new company would, in fact, be able to enjoy the apparent taxation advantages of operation from Bermuda and that the United Kingdom Treasury would have no claim on any profits except those remitted to Britain.

Some shipping circles believe that this move towards operating British tonnage under the tax-free flag of Bermuda will be followed by other United Kingdom shipowners. Representatives of the industry have repeatedly warned the Governement that this may be the only alternative to a steady decline in the British merchant fleet, so long as United Kingdom taxation places shipowners at a disadvantage compared with tonnage operating under the tax-free "flags of convenience" of Panama and Liberia.

Source: *Taxation*, September 8th, 1956.

UNITED STATES

U.S. Customs Legislation

The U.S. Customs Simplification Act of 1956 was signed by President Eisenhower on August 2. The new Act changes the basis for valuation of imports to export value; heretofore, the Customs Bureau appraised import goods on the basis of both foreign and export value and then used the higher valuation as a basis for duty assessment. A qualifying amendment limits the application of export value to those imports whose value would not be reduced more than 5 per cent. When its application would result in a

greater reduction, the old dual formula will continue to be applied. The President stated that the new valuation procedure "will do more than any other single measure to free the importation of merchandise from customs complications and pitfalls for the inexperienced importer"

Source: *The Journal of Commerce*, New York, N.Y. August 3, 1956.

III

CHANGES IN THE RATE OF FOREIGN CURRENCY

In Nr. 4 of this Bulletin's present volume (p. 215) we reproduced two Belgian cases dealing with the taxation of profits as a result of changes in the rate of foreign currency.

Under the heading *"Current taxation cases"* Mr. N. E. MUSTOE publishes an extract from a decision given by the Chancery Division *re* Greig *v* Ashton (*Taxation* Nr. 1516 of October 27th, 1956).

Below we reproduce Mr. Mustoe's extract because it seems to us that our readers will be interested in this subject. We repeat our request to our readers, made on p. 216, to provide us with similar texts or commentaries.

CHANCERY DIVISION

Income tax - Double taxation - Author - Overpayment of United States tax - Repayment of excess - Change in dollar rate - More pounds thus received - Whether excess is taxable - Income Tax Act, 1952, *Section* 347 - *Double Taxation* (*Taxes on Income*) (*U.S.A.*) *Order*, 1946 (*No.* 1327) *Article XIII* (2).

The respondent received an income as an author in the United States, and in 1946 paid about 24.000 dollars as United States income tax on the net earnings. Later it was discovered that she had been overassessed to United States tax, and in 1950 shè recovered 13,000 dollars. 1946 the dollar rate was four dollars to the pound; in 1950 it was 2.80 to the pound. She received credit for the remaining 11,000 dollars against the United Kingdom tax payable in respect of the same earnings at the rate of four dollars to the pound.

An additional assessment was made on the respondent in respect of the amount in pounds representing the difference between 11,000 dollars at four dollars to the pound and 11,000 dollars at 2.80 dollars to the pound. The Special Commissioners decided that the amount in question was not an assessable receipt of the respondent.

It was held that the Special Commissioners' decision was correct.

Mr. Justice Harman said that the appellant claimed credit for 11,000 dollars at the rate of four dollars to the pound; that was the credit she got; and that was thè right credit she should have had, because that followed the words of Article XIII of the convention.

"The fact that the United States authorities were slow about repaying or that the exchange had altered in the meanwhile, so that when they repaid her what they repaid was worth more to her in pounds, seems to me, when one looks at it carefully, to be entirely irrelevant. I do not think that it has got anything to do with the Crown at all".

His lordship rejected the Crown's contention because the alteration in the rate of exchange was purely an outside circumstance, which had nothing to do with the liability for tax nor the way in which the convention ought to be related to the law.

Source: *Taxation*, October 27th, 1956.

IV

REVIEWS — COMPTES RENDUS

UNITED NATIONS

UNITED NATIONS, Budget Management. Report of the workshop on problems of budget reclassification in the ECAFE region. (Bangkok, 30 August—10 September 1955). New York, 1955, 38 pp.
Sponsored by the Technical Assistance Administration, the Economic Commission for Asia and the Far East and the Department of Economic and Social Affairs.

The Workshop on problems of budget classification in the ECAFE region was held at ECAFE Headquarters in Bangkok, Thailand , from 30 August to 10 September 1955, under the joint auspices of the United Nations Economic Commisson for Asia and the Far East, the United Nations Technical Assistance Administration and the Fiscal and Financial Branch of the United Nations Bureau of Economic Affairs. The main purpose of the workshop was to provide a forum for informal discussions on problems of budget reclassification for policy purposes and for exchange of experiences in this field. The workshop concluded that supplementary classifications of government transactions into economic and functional categories, with a cross-classification of the two, would be found useful by any country wishing to improve the information at its disposal for formulating social and economic policy. The Workshop suggested that countries publishing a "Budget in brief" summarizing the estimates of expenditures for a forthcoming year, might include as a key table, a cross-classification by economic and functional categories. Classifications described in this report along these lines are presented as a basis for experiment.

Quarterly Bulletin of Steel Statistics for Europe.
United Nations, Geneva, June 1956. Vol. VII, No. 2.

AUSTRALIA

J. A. L. GUNN and R. E. O'NEILL; Guide to Commonwealth Income Tax. — 7th edition. — Butterworth & Co. (Australia) Ltd., 6—8 O'Connell Street, Sydney, 1955, 397 pp.

The seventh edition of Guide to Commonwealth Income Tax is, like its predecessors, designed primarily to meet the needs of university and accountancy students who are required to sit for examinations in Commonwealth Income Tax. However it will also be of assistance to solicitors, accountants, business executives who are confronted with the difficulties of preparing returns, checking assessments and advising their clients. The book comprises thirty-one chapters, each of which deals with a particular subject of income tax. The text covers the Income Tax and Social Services Contribution Assessment Act 1936—1954 (Act No. 27, 1936 - Act No. 43, 1954). A chapter is included explaining the provisions of Income Tax and Social Services Contribution Act 1954, which declares the rates of tax payable for the financial year 1954—1955. The provisions of the Income Tax (International Agreements) Act 1953 and of the Agreement with the United Kingdom and of the Convention with the United States of America for the avoidance of

double taxation have also been outlined. To enable the reader to trace at once where any particular section of the Assessment Act is dealt with in the book, a table of sections is included.

BELGIUM

Prof. J. VAN HOUTTE: *Beginselen van het Belgische Belastingrecht* (Grundsätze des belgischen Steuerrechts). Verlag: N.V. Standaard Boekhandel, Antwerpen/Amsterdam 1956.

Der ehemalige Ministerpräsident und Finanzminister von Belgien hat die Literatur mit einer ausführlichen Arbeit (521 S.) über die Grundsätze des belgischen Steuerrechts bereichert.

Die darin behandelten Problemen findet man auch in anderen Ländern und somit ist es für die Steuerwissenschaft an sich von grosser Wichtigkeit, dass uns hier von dem umfangreichen Gebiete ein Überblick von einem so durchaus sachverständigem Verfasser geboten wird.

Es wird nicht oft vorgekommen sein, dass jemand der von so vielen Seiten an den Stoff herangetreten ist, dazu kommt, eine Übersicht des ganzen Gebietes zu geben. Das Werk ist in 12 Kapitel eingeteilt; die Kapitel sind wiederum in Paragraphen (mehr als 700) unterverteilt, die Übersichtlich eingeordnet sind.

Man erhält einen Eindruck vom Plan des Werkes, indem man den Inhalt der Kapital einer näheren Betrachtung unterzieht:

I Allgemeine Begriffe (Steuer und Steuerrecht)
II Einteiling der Steuern (allgemein und für Belgien)
III Geschichtliche Entwicklung in Belgien.
IV Quellen des Steuerrechtes (wobei u.a. die Annuität besprochen wird)
V Anwendungsgebiet („non bis in idem", Gleichheit, Wirkung in der Zeit, Territorial, International).
VI Interpretierung (u.a. Betrachtung über die Autonomie des Steuerrechts)
VII Grundlage der Besteuerung (Beschreibung der wichtigsten Steuern)
VIII Festsetzung der Grundlage (u.a. die Kontrolle)
IX Begleichung (Übersicht der Sätze)
X Beitreibung (u.a. die Veranlagung)
XI Massnahmen zur Sicherung der Beitreibung
XII Streitigkeiten in Steuerangelegenheiten

In der Einleitung wird bemerkt, dass es für die Ausbildung von Juristen und Wirtschaftlern erforderlich ist, in erster Linie die Methode für die Lösung der Schwierigkeiten zu lernen und dass die Ausbildung mehr die Überzichtigkeit und die Prinzipien als Einzelregelungen im Auge haben soll. Dieser Gedankengang wurde in der ganzen Arbeit durchgeführt.

1) *Het verrichten van werkzaamheden in België door Nederlandse firma's die niet in België zijn gevestigd.*

2) *Het verrichten van werkzaamheden in Nederland door in België of Luxemburg gevestigde ondernemingen.*

Reports of the Netherland's Chamber of Commerce for Belgium and Luxemburg, Brussels, 1956.

These two reports give very useful information for Netherlands firms which intend to exercise activities in Belgium and for Belgian and Luxemburg firms which want to extend their activities to the Netherlands. The following subjects are treated: (1) Employment of personnel in the other country (passports, visitor's permits, work permits, social security, etc.) (2) Formalities to be fulfilled by the firm or the employee (3) Import of the required materials and machines. Payment of the work. Transfer of wages. (4) Taxes (turnover

taxes and other taxes). The report can be ordered from the Netherlands: Chamber of Commerce for Belgium and Luxemburg, 4, Warandeberg, Brussels.

Comité de Législation de la Chambre de Commerce de Bruxelles

(Association sans but lucratif, Rue de Frèves 112, Bruxelles):
Cycle de conférences sur la législation fiscale, 96 pp.

After an introduction by the president of the Chamber of Commerce in Brussels, Mr. Jean Paul Hirsch and by the president of the Section de Législation Fiscale du Comité de Législation, Mr. Maurice Moer and Mr. Marcel Feye gave a short commentary and a more extensive final word.

An important part of the Belgian fiscal law was treated by a number of speakers, handtax and "Taxe Mobilière", by Mr. René van Geud, "Business" tax by Charles Cardijn, the supplementary "personal" tax by Mr. Raymond van Rolleyheur, the returns and control by Mr. José Sury, the indirect taxes by Mr. Henri Caulve and the special taxes by Mr. Max Vanderschueren.

In the final word i.a. the following points were reviewed: the level now reached cannot be exceeded. The productive power is being affected and fraud is stimulated. But above all things social life is being broken. Some examples were given.

CH. CEULEMANS: *Traité élémentaire des taxes assimilées au timbre*. 2. Auflage. Ch. Ceulemans, Victor Rousseaulaan 23, Brüssel, 186 S., Price Fr. 190.00, 1956.

Erschienen ist die 2. Auflage des bekannten Werkes von Ceulemans über die belgischen Umsatzsteuern. Die erste Auflage ist von uns im Bulletin, Vol. IV Seite 376 besprochen worden.

Wie die eerste Auflage ist das Buch kein erschöpfender Kommentar, sondern hauptsächlich eine Zusammenfassung des ausgedehnten Stoffes für Studienzwecke. Jedem der sich mit Bezug auf den Komplex der Umsatzsteuern in Belgien (taxe de transmission, taxe de facture usw. insgesamt 13) orientieren will, können wir diese Arbeit empfehlen. Es besteht eine Ausgabe in der niederländischen Sprache.

CANADA

CANADIAN TAX FOUNDATION: *The National Finances* 1956-57. 154 University Avenue, Toronto 1, 1956, 148 pp.

This yearly analysis of the programme of revenues and expenditures of the Government of Canada carries now 148 pages, which is 28 pages more than last year. Several interesting innovations account for this increment. The most important of these is a wholly-new section on Crown Corporations. Almost equally extensive are a section on the new health insurance proposals and an explanation of the new proposals for federal-provincial tax sharing. Other sections have been expanded in lesser degree, and throughout all material has been brought up to date.

CANADIAN TAX FOUNDATION: *Submission to Sales Tax Committee*. Canadian Tax Foundation, 154, University Avenue, Toronto 1, 1955, 26 pp.

The Canadian Tax Foundation has already issued several documents of a descriptive and analytical character on the federal sales tax. Therefore in this booklet those matters which have previously been dealt with in some detail are touched on only briefly. Extensive treatment has been reserved for new material or in some instances for more precise statement of problems and solutions previously put forward. No single solution is proposed, and each of the possible alternatives advanced would affect individual taxpayers in different ways.

J. HARVEY PERRY: *Federal-Provincial tax negotiations*. Canadian Tax Foundation, 154, University Avenue, Toronto 1, 1956, 22 pp.

This publication — no. 10 of the Canadian Tax Papers — is an interim report of the federal-provincial conferences held in Ottawa in April and October 1955 to discuss the arrangements that would be adopted for the five-year period 1957 to 1961. These conferences resulted in two very significant developments in January, 1956. One was the letter of Prime Minister St. Laurent to the provincial premiers setting out new tax proposals, and the other was the announcement, following a conference on this subject in the same month, that the federal government would assist the provinces in establishing hospital insurance schemes. This statement deals mainly with the tax proposals of the federal government. The immediate circumstances which brought them forth are also described.

HANS EICHE: *Internationale Steuern*, 3. Lieferung: *Canada*. Titz Verlag, Berlin, 1956, 68 pp.

Mit dieser Broschüre wird die Schriftenreihe „Internationale Steuern" fortgesetzt, nachdem bereits die Lieferungen „Bundesrepublik Deutschland" und „Schweiz" ausgegeben worden sind. Mit der Ausdehnung der internationalen Wirtschaftsbeziehungen gewinnt auch das internationale Steuerrecht erhöhte Bedeutung. Darum ist die vorliegende Broschüre eine ebenso willkommene Hilfe für die Auslandsbetätigung der Unternehmer, wie dies bereits bei den anderen Ausgaben dieser ausführlichen Informationsquelle der Fall war.

Der Hauptteil der Schrift enthält, erstmalig in deutscher Sprache, eine systematische Darstellung des canadischen Einkommensteuerrechts sowie die wesentlichen Vorschriften der canadischen Umsatz-, Erbschaft- und Schenkungsteuern. Eine ausführliche Behandlung erfährt die Besteuerung der natürlichen Personen, deren Grundsätze auch auf die Besteuerung der Körperschaften anzuwenden sind. Beschränkte und unbeschränkte Steuerpflicht, steuerfreie Einkünfte, Einkommen aus „Geschäftsbetrieb", nichtabzugs- und abzugsfähige Ausgaben, Bewertungsvorschriften, Abschreibungen sind einige der Überschriften dieses Abschnitts. Anschliessend werden die Vorschriften für die Besteuerung der juristischen Personen angeführt und die Besteuerung der Gewinnausschüttungen canadischer Kapitalgesellschaften im einzelnen klargestellt.

GERMANY

WILHELM GERLOFF and FRITZ NEUMARK: Handbuch der Finanzwissenschaft, 2nd. completely revised edition, Vol I-II J.C.B. Mohr, Postfach 89, Tübingen, 1952.

This second edition of this well-known manual on public finance is virtually a new work. In the two decades since the first edition appeared (in 1926) many changes took place in the field covered by this comprehensive work. Moreover, this domain of knowledges has considerably been extended since the last war. Several difficulties had to be overcome by the publishers as the book is the result of the work of distinguished authors of an international circle.

The main difference between this edition and its predecessor is that the historical development of public finance is now being presented in separate articles.

Volume I of this book is divided into 4 parts. In part one the nature and scope of public finance is discussed as compared with other sciences. The late Prof. Dr. Dr. Wilhelm GERLOFF, Frankfort a.M. writes about the principles of public finance in this section. The other authors are Prof. Dr. Herbert SULTAN on public finance and sociology, the late Prof. Ernst BLUMENSTEIN on

the juridical character of public finance, Prof. Dr. Wilhelm BICKEL, Zürich on public finance and statistics, Prof. Giuseppe Ugo PAPI, Rome, on the relationship between public finance and economics, and Prof. Dr. Eugen Grossmann, Vevey, on finance and currency.

The subject of Part II is the history of the economics of public finance. There are seven contributions in this section.

Prof. Dr. Dr. Wilhelm GERLOFF, Franfurt a.M., Origin and beginning of the economics of public finance; Prof. Dr. Bernhard LAUM, Marburg, History of the economics of public finance in antiquity and early middle ages; Prof. Dr. Th. MAYER, Konstanz, History of the economics of public finance until the end of the 18th century; Prof. Dr. Fritz TERHALLE, München, History of the economics of public finance in Germany from the beginning of the 19th century until the end of the second World War; Prof. Ursula K. HICKS, Oxford, The economics of public finance in Great Britain 1799-1949; Prof. Harold M. GROVES, Madison, History of the economics of public finance in the United States of America; Prof. Dr. Max CLUSEAU, Toulouse, History of the economics of public finance in France from the 18th century until the present time.

The third part bears the title: History of the science of public finance. It consists of the following six essays: Prof. Dr. Dr. Anton TAUTSCHER, Graz, History of German public finance until the end of the 18th century; Prof. Dr. Erwin v. BECKERATH, Bonn, The newer history of German public finance (since 1800); Prof. Dr. Fritz Karl MANN, Washington, History of Anglo-Saxon public finance; Prof. Dr. Max CLUSEAU, Toulouse, The history of public finance in France; Prof. Dr. Dr. Emanuele MORSELLI, Ferrari, History of Italian public finance; Prof. Dr. Carsten WELINDER, Lund, History of Scandinavian public finance.

Part IV deals with the national household and contains fives essays on this subject. Prof. Dr. Gerhard COLM, Washington, writes about planning of the household, government budget, Financial plan and National budget. Prof. Dr. Jan TINBERGEN, Rotterdam, and Dr. G. STUVEL, Paris discuss the National budget. Prof. Dr. Fritz NEUMARK describes theory and practice of budget structure. Prof. Dr. Fritz NEUMARK, Frankfurt a.M., draws our attention to the principles and methods of budget administration and the financial means to cover the State's expenses.

The last essay of this volume by Dr. Kurt HEINIG, Stockholm, is on budget control.

The second volume has been issued in several releases during 1953-1955.

Die öffentliche Aufwandwirtschaft, is the title of the first part of this volume (section V of the whole work); beginning with an article by Prof. Maurice MASOIN, Bruxelles on public expenditure. A distinction is made between productive — distributive — and "real" expenditures, thus the author elucidates the social effect of the government expenses. He makes a distinction between structural and cyclical policy of expenditure.

The remuneration in public service is dealt with in three extensive articles by J. L. GERVAIS, Bruxelles for a number of countries; by Prof. Dr. Armin SPITALER, Cologne for Germany and several other countries and by J. M. LABOVITZ for the U.S.A. The studies (100 pp.) give an impression of the importance and complexity of the problem. Graphics and tables are given for completeness sake. This part is summoned up by an article by Dr. Kurt HEINIG: "Der öffentliche Sachaufwand", by which the modern authors mean the social function of public entities. The article shows how these public activities have developed, and the problems arising from them.

The second part deals with public revenues. Two articles give a survey of private law and public law state enterprises. Both written by Prof. Dr. Theodor Keller In the second article the author gives a survey on elder

literature and a lay-out of its development in modern times. He discusses to what extent these enterprises serve the general interest, and he gives a description of the various aspects of public law enterprises.

Section VII opens with an article by the late Prof. Wilhelm GERLOFF, (Die Gebühren) the author studies the notion and nature, history, theoretical principles, etc. of the retributions and he gives an extensive description of the "Gebüren" in the German Federal Republic as well as in other countries like Austria, Switzerland, England. U.S.A., etc. The contributions (Beiträge) are dealt with by Prof. Richard BÜCHNER, Zürich: History, the contributions as government levies, are considered from a general point of view.

Section VIII deals with taxation; sub. section A. concerns the general tax doctrine. In an extensive and very interesting article Prof. Wilhelm GERLOFF writes about the "Steuerwirtschaftslehre" (86 pp).

First he deals with the economy of taxation, the nature of the tax, and the object of taxation in general, making a distinction between the"finance" tax and the "regulating" tax, the object of which goes much farther then to collect only revenues. Problems such as, is the levying of taxes justified, the general principles, practical tax policy, etc. are discussed. Furthermore: tax paying capacity, progressive taxation, tax limitation. Prof. Günter Schmölders gives a succinct survey of the tax system and tax classification, where the history as well as the rationalization of tax systems are dealt with. The author himself does not believe much in the usefulness to build a tax system on technical and juridical aspects, prefering a system where more attention is paid to the effects and mutual relationship of taxes.

An extremely difficult problem is the incidence and shifting of taxes, which is dealt with by Prof. Dr. Carsten WELINDER, Lund. The author discusses many aspects of this problem, e.g.: the effects of taxation in general, the influence on saving, working incentive, and public and capital formation. Special attention is given to the shifting of the income tax, etc. as well as to the consumption taxes. The technical aspects of taxation are dealt with by Prof. WILHELM GERLOFF. This article, where history and development are extensively described, is based upon Franz Meisel's study of the first edition of this work. The last contribution in this section has been written by Prof. Rolf GRABOWER and deals with control and taxation, especially as regards Germany.

Section B. refers to the special tax theory and begins with an article by Prof. Wilhelm BICKEL on "Ertragsteuern" (taxes on different income items), dealing with the fiscal meaning of this form of tax, its concept, history and present development. The main idea is to explain its significance from a fiscal and social point of view, as well as to give an explanation of the most important forms: tax on land, buildings, enterprises and on the proceeds from profits and labour. The income tax is discussed by Prof. Henri LAUFENBURGER, Paris: History, nature and purpose of taxation in connection with the tax-payers, furthermore the term income in general and the taxable income in particular, as well as companies are discussed in this detailed study, which includes many countries and gives a special survey on the U.S.A.

Prof. Carl. S. SHRUP, New York, goes into the matter of war gains taxation and taxation of capital increases (21 pp.) where special attention is drawn to the method adopted; Prof. Eugen GROSSMANN, Veney (Switzerland) (14 pp.) deals with property taxation in a descriptive and critical survey.

Succession and gift taxes are dealt with by Prof. Richard BUCHNER, especially as regards the theoretical principles, double taxation and the charge of these taxes; moreover the author gives a clear survey of the different forms in which these taxes occur. Prof. Oswalt v. NELL BREUNING, Frankfurt, discusses a tax on increases of value; Prof. G. SCHMÖLDERS turnover taxes

(35 pp). The development in many countries has been considered as well as the legal system and the improvement in modern society.

Transaction tax is the subject dealt with by Prof. Friedrich KLEIN MUNSTER, (29 pp.): History, specially as regards stamp taxes, judgement of the principles, the distinction from the retributions, the subdivision of these taxes in "Geschäfts-Rechts- und Transport-Verkehrsteuern" (Business-law and transport transaction taxes). The system of consumption and expenditure taxes has been dealt with by Prof. SCHMÖLDERS in a comprehensive article. A study of the various consumption taxes is carried out by way of different points of view; it has been tried to arrive at a general concept. The historical development is also taken into account.

Great attention is paid to the actual system in force in, also to taxes on beer, spirits, tobacco, coffee and tea, salt and sugar, etc. Also the tax on amusements and many other different forms has been dealt with. Dr. Erich SIEGERT, Berlin discusses certain duties: History, nature and technique are being studied. From a statistical index regarding some countries in 1948-1953 it appears that in some countries these duties have disappeared, whereas in some other countries their importance is still considerable and in some cases even increasing. (Great Britain).

The last part of the section under discussion, of the entire work is dedicated to the "Finanzwirtschaftlichen Beziehungen zwischen öffentlichen Körperschaften". Prof. Wilhelm BICKEL, Zürich deals with financial equalization. After the delimitation of the matter and an historical review, the author discusses: the general theory, financial agreements between Sovereign States, between Federal States as well as between the government and public bodies, all this in a very extensive article. Detailed tables and indexes facilite the use of this very important book.

The third volume will contain a treatment of the development of public finance of the most important countries from the beginning of the 19th century until today, while the fourth volume, that could not appear in the first edition owing to many difficulties, will deal with international problems in public finance.

Steuer-Kommentare aus dem Bundesfinanzministerium, Herausgeber: Ministerialdirektor Professor Dr. H. OEFTERING und Ministerialdirektor MERSMANN. Industrie-Verlag Carlheinz Gehlsen GmbH. vorm. Spaeth & Linde, Alpsteinweg 4, Konstanz.

1. *Gewerbesteuer-Richtlinien* 1955, kommentiert von Regierungsrat PRIETZEL, Bundesfinanzministerium, 1956, 140 pp. „Deutsche Steuer-Zeitung Ausgabe C Lieferung Nr. 128, 14. August 1956.

Die Gewerbesteuer-Richtlinien 1955 entsprechen den Gewerbesteuer-Richtlinien 1951 unter Berücksichtigung der Gewerbesteuer-Ergänzungsrichtlinien 1955. Diese Ergänzungsrichtlinien sind im wesentlichen durch die Vorschriften der kleinen Steuerreform 1953, des AO-Änderungsgesetzes 1953 und des Steuerneuordnungsgesetzes 1954 notwendig geworden. Soweit durch diese Rechtsänderungen die Gew.-StR 1951 zu ändern waren, sind in den entsprechenden Abschnitten auch sonstige erforderliche Änderungen vorgenommen worden. Die sehr eingehende Kommentierung erstreckt sich insbesondere auf Änderungen von allgemeiner Bedeutung wie z.B. die Abgrenzung des Gewerbebetriebes gegenüber der Land- und Forstwirtschaft (Abschnitt 13), Betriebe der öffentlichen Hand (Abschnitt 20) und die Ermittlung des Gewerbeertrages im Fall der Organschaft (Abschnitt 42). Weiter werden Zweifels- und Auslegungsfragen ausführlich erläutert, die sich bei der praktischen Anwendung des Gewerbesteuerrechts ergeben haben und von allgemeiner Bedeutung sind. Geänderte Bestimmungen sind durch Randstriche kenntlich gemacht.

2. 3. *D-Markbilanz-Ergänzungsgesetz*, erläutert von Oberregierungsrat Horst Vogel, Bundesfinanzministerium, 1956, 76 pp.
„Deutsche Steuerzeitung" Ausgabe C, Lieferung Nr. 120.

Dieser Sonderdruck mit der ausführlichen Kommentierung von Oberregierungsrat Vogel, hat besondere Bedeutung, denn das 3. DMBEG ist das wichtigste der bisherigen Änderungs- und Ergänzungsgesetze und bringt die DM-Bilanzgesetzgebung praktisch zum Abschluss. Steuerlich bedeutsam ist der Art. 1 der Vorschriften über die endgültige Bewertung der Wertpapiere und Anteile und bestimmter Vermögensbestände in Berlin (West) in der D-Mark-Eröffnungsbilanz enthält. Die bisherigen Höchstwerte für Wertpapiere und Anteile werden wesentlich herausgesetzt. Die amtliche Liste liegt bei. Für die Bearbeitung aller Fragen, die mit der D-Markbilanzgesetzgebung zusammenhängen, ist dieser neue Sonderdruck der „Deutschen Steuer-Zeitung" so wichtig, weil im Anhang eine Zusammenstellung aller bisherigen Bestimmungen enthalten ist. Da diese Bestimmungen z.T. weit zurückliegen und oft nicht mehr greifbar sein werden, ist es sehr zu begrüssen, dass hier alle Bestimmungen zusammengefasst worden sind.

Deutsche Steuer-Zeitung, Ausgabe C. Industrie-Verlag Carlheinz Gehlsen, vorm. Spaeth & Linde, Alpsteinweg 4, Konstanz.
Lieferung Nr. 115. *Lohnsteuerrecht* 1955, mit Anmerkungen von Oberregierungsrat Göring, 1955, 220 pp.

Neue Bestimmungen zum Lohnsteuerrecht sind notwendig geworden zur Anpassung an die veränderten wirtschaftlichen Verhältnisse und an die zwischenzeitliche Entwicklung der Rechtsprechung sowie zur Regelung von Zweifels- und Auslegungsfragen. Der neueste Lohnsteuer-Sonderdruck der „Deutschen Steuer-Zeitung" Ausgabe C enthält die 2. Lohnsteuer-Änderungsverordnung 1955 und die Lohnsteuer-Ergänzungsrichtlinien 1955. Ausserdem sind die Lohnsteuer-Durchführungsverordnung 1955 und die Lohnsteuer-Richtlinien 1955 in dem Band enthalten.

Verlag Dr. Otto Schmidt KG, Hohenzollernring 78, Köln.

1. *Schnellkartei des deutschen Rechts*. Reihe III, Lieferung 69 zu den Bänden 10, 11 und 13.

2. *Steuerrechtsprechung in Karteiform*. Höchstgerichtliche Entscheidungen in Steuersachen. (Mrozek-Kartei).
56. Lieferung, August 1956.
57. Lieferung, September 1956.

3. W. Hübschmann, R. Grabower, E. Beck, H. von Wallis und O. Schwarz: *Kommentar zum Umsatzsteuergesetz*.
Lieferung 4, Juli 1956.
Lieferung 5, September 1956.

4. L. Gürsching, A. Stenger und H. Diedenhofen: *Bewertungsgesetz, Vermögensgesetz*. Kommentar.
Lieferung 5, August 1956.

Verlag der Steuertarife KG, P. Wachsmann, Margarethenstrasse 28, (22a) M. Gladbach (Rhld.) *Die Steuertarife sämtlicher Steuergesetze*.

5. Ergänzungslieferung zur 12. Auflage.
Diese Ergänzungs- und Änderungslieferung umfasst 48 Blätter und gibt den Rechtsstand bis 1. Juli 1956 in den wichtigsten Bestimmungen wieder.

Ottmar Bühler: *Steuerrecht der Gesellschaften und Konzerne*. 3. neubearbeitete, erweiterte Auflage. Verlag Franz Vahlen, Malvenstrasse 12, Berlin-Lichterfelde-West, 1956, 451 pp. Mit einem Anhang: *Konzerngestaltungen* und 21 Schaubildern.

Die 3. Auflage des seit langem vergriffenen Werkes stellt ein völlig neues Buch dar. Neben den zahlreichen, wichtigen Neuerungen auf dem Gebiete der Körperschaftssteuer, die zu berücksichtigen waren, sind es vor allem zwei Tendenzen, die der Neuauflage ihr Gepräge geben, auch schon rein äusserlich in einer Umfangserweiterung des Werkes auf das Anderthalbfache zum Ausdruck kommen: die fortschreitende Konzentrationsbewegung und die Zunahme der internationalen Verflechtungen. Die erstere Tendenz hat zu einem erheblichen Ausbau des Konzernsteuerrechts geführt, das mit seinen zahlreichen Schaubildern jetzt noch weit mehr als bei der Vorauflage zugleich eine Einführung in das Konzernrecht überhaupt darstellt. Der zweiten Tendenz wird Rechnung getragen durch eine Erweiterung von grundsätzlicher Art, und zwar durch die Einfügung eines neuen dritten Teiles: Überblick über die Gesellschaftstypen in USA, England, Frankreich, Italien und ihre Besteuerung. Die neue Auflage will damit einen Beitrag zu einer europäischen Betrachtungsweise unseres Gesellschaftsrechts und Gesellschaftssteuerrechts geben, von der man vermutlich bald erkennen wird, dass sie unser Schicksal ist. Das Gesellschaftsrecht wird immer mehr vom Steuerrecht her beeinflusst. Für die verantwortlichen Stellen in der Wirtschaft ergibt sich daraus die Notwendigkeit, sich über die Entwicklung und den neuesten Stand der Verhältnisse eingehend zu unterrichten. Das Bühlersche Werk gibt nach einem Überblick über die verschiedenen Gesellschaftstypen und ihre Behandlung in der Steuergesetzgebung und nach einer grundsätzlichen Bermerkung über den Belastungsvergleich zwischen Personen- und Kapitalgesellschaften im ersten Teil eine klare, anschauliche Darstellung über das Steuerrecht der einzelnen Gesellschaften. Vor allem auch der zweite Teil, der sich mit dem Steuerrecht der Konzerne und sonstigen Unternehmenszusammenschlüssen befasst, wird in weiten Kreisen besonderes Interesse finden. Ausführlich sind hier behandelt: Konzerne und Interessengemeinschaften, Kartelle und Syndikate und die so wichtigen losen Formen von Unternehmenszusammenschlüssen, wie Zweckgemeinschaften, Arbeitsgemeinschaften, Konsortien und Gemeinschaftsgründungen. An Hand von Beispielen und Schaubildern werden am Schluss dieses Teiles die Konzerngestaltungen besprochen. Man kann sagen, dass es wohl kaum ein steuerliches Sonderproblem im Zusammenhang mit diesen Fragen gibt, das in diesem ausgezeichneten Werk nicht erörtert ist. Es gehört daher in die Hand eines jeden, dem das Steuerrecht eines Konzerns oder einer sonstigen Unternehmenszusammenfassung anvertraut ist.

Dr. W. Blümich, Dr. O. Klein, Dipl. Kfm. W. Steinbring: *Körperschaftsteuergesetz* (mit Durchführungsverordnungen, Nebengesetzen und Verwaltungsanweisungen), Kommentar. 3. völlig neubearbeitete Auflage. Verlag Franz Vahlen G.m.b.H., Berlin und Frankfurt a.M. 1956.

Bereits früher haben wir unsere Leser auf die Bücher mit einem grünen Umschlag des Verlages Franz Vahlen aufmerksam gemacht. Nunmehr ist die 3. Auflage des Werkes von Blümich/Klein/Steinbring erschienen welches Buch 1315 Seiten zählt. Ebenso wie die vorigen Ausgaben ist das Werk ausgezeichnet und übersichtlich.

Die Auflage enthält ein umfangreiches Sachwortsverzeichnis, wodurch das Nachschlagen sehr erleichtert wird. Gute Ware lobt sich selbst. Wir freuen uns dass die steuerrechtliche Literatur mit diesem Buche bereichert wurde.

Hermann Herold: *Bank- und Börsenrecht.* Verlag Franz Vahlen, Malvenstrasse 12, Berlin-Lichterfelde-West, 1956, 167 pp.

Mit dem Werk von Dr. Herold ist auf dem Gebiet des Bank- und Börsenrechts erstmalig eine systematische Darstellung geschaffen, die in übersichtlicher Gliederung einen konzentrierten Überblick über den umfangreichen, weit zerstreuten Rechtsstoff bietet. Die reichen Erfahrungen, die der Verfasser in langer Praxis und bei seinen Vorlesungen an der Universität Köln

sammeln konnte, haben in diesem Werk ihren Niederschlag gefunden, wobei das grosse pädagogische Geschick des Verfassers dem Buch sein besonderes Gepräge gibt. Bei der Bedeutung, die das Bankwesen in der Wirtschaft besitzt, wird das Werk, das eine klare, einprägsame Übersicht über das gesamte Rechtsgebiet gibt, nicht nur in der Bankpraxis und derem Nachwuchs, sondern ganz allgemein in der Wirtschaft sowie von den Studierenden der Rechtswissenschaft und Betriebswirtschaftslehre begrüsst werden. Jeder, der sich einen Überblick über das gesamte Gebiet oder über eine bestimmte Frage verschaffen will, wird das Werk von Dr. Herold mit Erfolg zur Hand nehmen. Ein eingehendes Inhalts- und Sachverzeichnis erleichert den Gebrauch.

KURT ZULOW, MAX HENZE und ROLF SCHUBERT: *Die Besteuerung der Genossenschaften*. 4. ergänzte Auflage. Verlag Franz Vahlen, Malvenstrasse 12, Berlin-Lichterfelde-West. 1956, 236 pp.

Das Schwergewicht der Erläuterungen in diesem seit Jahren bekannten Buch. liegt wie bisher auf dem Gebiet der Körperschaftsteuer. Aber auch die anderen laufenden Steuern, insbesondere Gewerbesteuer, Vermögensteuer und Umsatzsteuer haben eine eingehende Behandlung erfahren. Ein besonderer Abschnitt ist der Besteuerung des Genossen gewidmet. Die Verfasser haben sich bemüht, in dem durch den Umfang des Werkes gebotenen Rahmen eine Darstellung des gesamten Rechts der Besteuerung der Genossenschaften zu geben.

V

DER FINANZAUSSCHUSS DER OEEC [1])

Auf eine gemeinsame Anregung der Niederlande, der Schweiz und der Bundesrepublik ist durch Ratsbeschluss der OEEC vom 19. März 1956 ein Finanzausschuss gebildet worden, dem Regierungsmitglieder aller an der OEEC beteiligten Länder angehören. Welche Aufgaben dieser Ausschuss in weiterer Zukunft zu lösen haben wird, insbesondere auch im Hinblick auf die in Brüssel laufenden Verhandlungen über die Bildung eines Gemeinsamen Marktes innerhalb der Montanunionländer steht dahin. Einstweilen hat der Ausschuss den Auftrag erhalten, sich der Koordinierung von Doppelbesteuerungsabkommen zu widmen, und zwar im einzelnen:

1. Auf dem Gebiete der direkten Besteuerung:
   Welche Steuern auf Einkommen, Kapital, Vermögen und Erbschaften sollten in Doppelbesteuerungsabkommen einbezogen werden? Welche Methoden sollten in solchen Abkommen angewandt werden, insbesondere in bezug auf die Verteilung von Gewinnen zwischen Haupt- und Zweigniederlassung oder zwischen der Mutter- und der Tochtergesellschaft, die Besteuerung von Einkünften aus Beteiligungen (Quellenabzug), die Besteuerung von Lizenzen und ähnlichen Zahlungen?
2. Auf dem Gebiete der indirekten Besteuerung:
   Durch welche Massnahmen kann die Doppelbesteuerung vermieden werden, wenn derselbe Vorgang in mehreren Mitgliedsstaaten der Umsatzsteuer unterworfen ist? Ist es möglich — gegebenenfalls auf welchem Wege —, die doppelte Erhebung der Umsatzsteuer in bezug auf Dienstleistungen zu vermeiden?
3. Es soll versucht werden, die wichtigsten Begriffe, die in Doppelbesteuerungsabkommen verwendet werden, zu vereinheitlichen; z.B. Wohnsitz, dauernde Niederlassung, Klassifizierung und Lokalisierung von Einkünften.

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[1]) Quelle: *Aktuelle Steuerrundschau*, Nr. 5, 7. August 1956.

4. Eindlich soll der Finanzausschuss überlegen, auf welche Weise Ungleichheiten in der Besteuerung beseitigt werden können, die sich auf Grund der Nationalität eines Steuerpflichtigen ergeben.

Die erste Sitzung dieses Finanzausschusses hat am 23./24. Mai 1956 stattgefunden, in der das niederländische Ausschussmitglied van den Tempel einstimmig zum Vorsitzenden gewählt wurde.

Der Ausschuss hat sich nach unseren Informationen schon in dieser ersten Sitzung ein umfangreiches und dennoch kurzfristig zu bewältigendes Arbeitsprogramm gestellt, das nur dadurch bis zum vorgesehenen Herbst-Termin erfüllt werden kann, dass die einzelnen vorbereitenden Aufgaben an bestimmte Mitgliedsländer verteilt wurden. Es handelt sich zunächst um folgende Untersuchungsgebiete:

1. Begriff der „dauernden Betriebstätte" —
   Untersuchungsländer: Deutschland und England
2. Begriff des „steuerlichen Wohnsitzes" —
   Untersuchungsländer: Dänemark und Luxemburg
3. Festlegung der direkten Steuern (einschl. Vermögen- und-Erbschaftsteuern), die in Doppelbesteuerungsabkommen einbezogen werden sollten —
   Untersuchungsländer: Italien und Schweiz
4. Ungleichheiten bei der Besteuerung auf Grund der Nationalität oder ähnlicher Gründe —
   Untersuchungsländer: Niederlande und Frankreich
5. Einkommens- und Vermögensbesteuerung von Unternehmen der Seeschiffahrt und Luftfahrt und ihrer Angestellten —
   Untersuchungsländer: Schweden und Belgien.

Wir werden zu gegebener Zeit über den Fortgang der Arbeiten dieses Ausschusses, dem in der internationalen Fortentwicklung des Steuerrechts besondere Bedeutung beizumessen ist, berichten.

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