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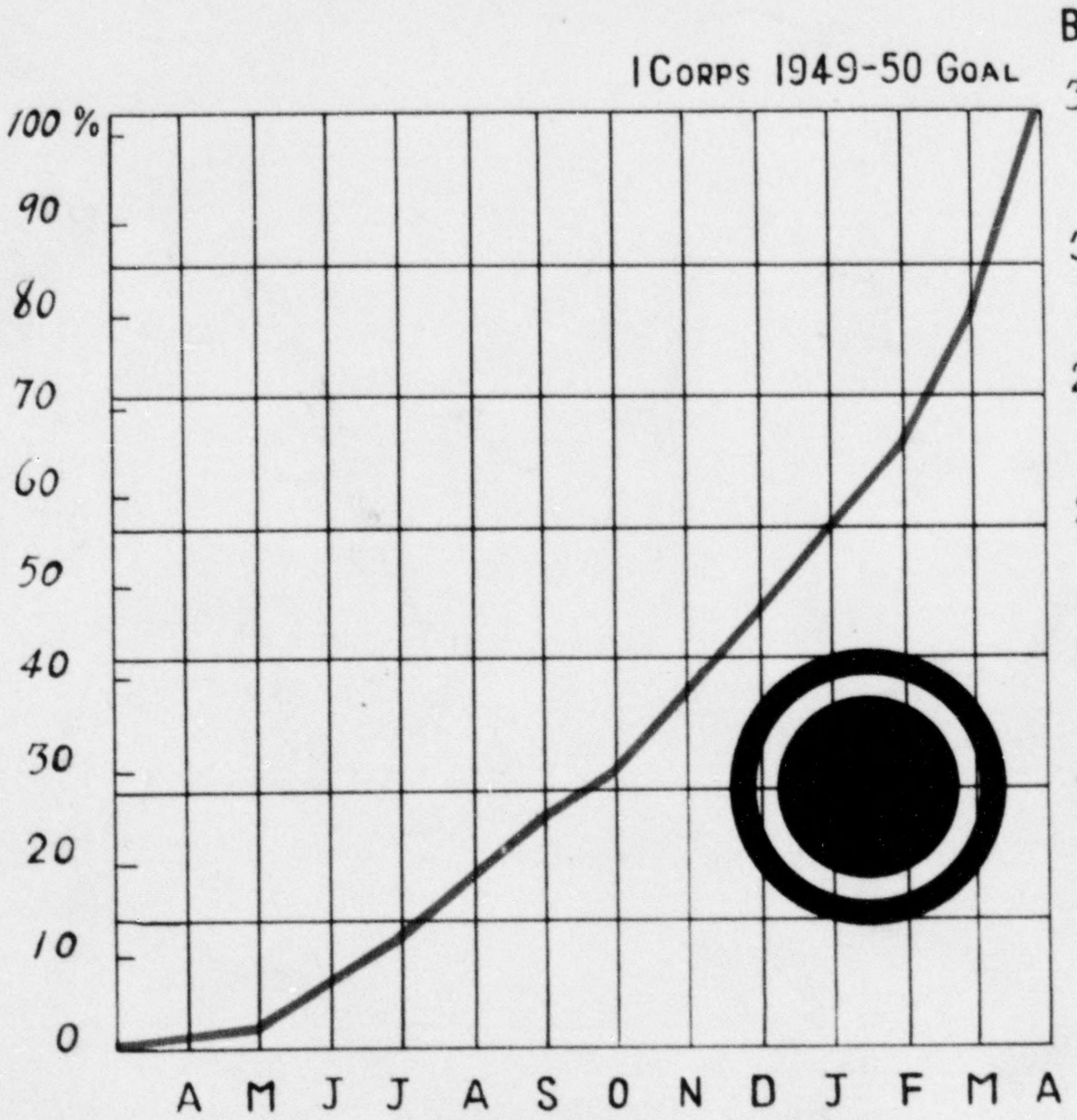
# TAX MANUAL

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## FOR USE BY MILITARY GOVERNMENT TAX SURVEILLANCE PERSONNEL

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Headquarters I Corps
APO 301 (Kyoto, Honshu)
Civil Affairs Section

1 July 1949

# T A X  M A N U A L

For Use by Civil Affairs
Tax Surveillance Personnel

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Commanding, I Corps

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Colonel, FA
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HEADQUARTERS I CORPS
Civil Affairs Section

# F O R E W O R D

1 July 1949

The total collection of taxes by the Japanese Government is of primary importance in effecting the realization of the Nine Point Economic Stabilization Program. The 100% collection of taxes from everyone who owes taxes is the objective of all tax officials and probably will be necessary to balance the 1949-50 budget of approximately 704 billion yen.

In order to ascertain the progress of tax collections, this headquarters will assign to teams tentative intermediate monthly and annual objectives. These represent approximately double the amounts which were collected last year. These quotas are not assigned to the various Japanese Tax Administration agencies. The curves indicating collections during the fiscal years 47-48 and 48-49 can be used to compare percentages of collections and to determine the status of the current program.

This manual has been prepared for the expressed purpose of assisting tax surveillance officers maintain effective surveillance over Japanese officials to the end that they collect the taxes. Civil Affairs personnel will not engage in the direct collection of taxes.

J. J. BURNS
Colonel, FA
Chief, Civil Affairs Section

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# CHAPTER I

## ORGANIZATION OF THE NATIONAL TAX ADMINISTRATION SYSTEM OF THE JAPANESE GOVERNMENT

### 1. Ministry of Finance

The Ministry of Finance is one of the twelve ministries of the Japanese Government and is comparable to the Treasury Department in the United States.

The office of the Minister of Finance, comparable to the Secretary of the Treasury in the United States, is located in Tokyo. It has duties and responsibility to "Oversee all financial affairs of the State including the business concerning the balance account, cash account, taxes, national loans, currency, deposit in the Treasury, safe deposits in the Treasury, banking and trust business, and the supervision of the financing of the local administrative organizations".

The office of the Ministry of Finance is divided into eight major bureaus and six external bureaus. The major bureaus are, the Ministers Secretariat, Financial Bureau, Taxation Bureau, Banking Bureau, Budget Bureau, National Property Bureau, Administrative Bureau, and the Allowance Bureau. The External Bureaus are; the Bureau of Mint, Bureau of Printing, the Monopoly Bureau, the Regional Financial Bureaus, the Custom House, and the Securities and Exchange Commission.

### 2. Reorganization of Tax Administration of National Government

The organization as outlined above divides the responsibility for administration and collection of national taxes between several of the internal and external bureaus. The Taxation Bureau determines policy relative to taxation and has direct supervision over the imposition and collection of internal revenue taxes, customs and tonnage dues. This bureau also conducts research on the advisability of new tax legislation. The Regional Financial Bureaus (11 in number) are primarily responsible for the administration of internal tax matters determined by the Taxation Bureau. The Regional Financial Bureaus are at present also responsible for numerous other matters, such as preparation of the Budget, the National Property Bureau, and the Banking Bureau.

The above organization proved to be inefficient and did not clearly define the duties of each section of government. In order to eliminate these difficulties, and establish a sound workable tax structure, the Supreme Commander, on 4 May

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1949, issued a memorandum to the Japanese government directing a reorganization of the national tax administration system. While final determination of the new organization has not been made as of this date, the new organization will require organization of a new tax administration bureau as an external bureau for the administration of national taxes. The present Regional Financial Bureaus will be reconstituted as Regional Tax Offices under the Tax Administration Bureau. The bureau will have complete authority over regional and local offices and be responsible for all national taxation matters.

Other contemplated changes contained in the memorandum are as follows: All functions of the present taxation bureau pertaining to administration will be transferred to the Tax Administration Bureau and the present bureau will be reconstituted as a Research Bureau, and will deal only with matters and research pertaining to tax legislation; all functions presently performed by the Regional Financial Bureaus which are alien to taxation will be distributed elsewhere under the Ministry of Finance. The Custom Division presently in the Taxation Bureau will remain within the internal Organization of the Ministry of Finance.

3. <u>Local Tax Offices</u>

At the present time there are 498 local tax offices in Japan. Each office is under the supervision of a Regional Financial Bureau Office.

The affairs of the local tax office are under the supervision of the chief of the office. The office is usually divided into three sections; the Direct Tax Section which makes the audits and assessments of direct taxes; the Indirect Tax Section which makes the audit and assessments of indirect taxes; and the General Affairs Section which performs clerical and bookkeeping duties and also makes the collections of delinquent tax.

The chief of a local tax office has broad discretionary powers, not only in the management of the office and personnel affairs, but also in the assessment and collection of the taxes.

4. <u>Organization and Function of the Inspection Division</u>

The local tax offices are semi-autonomous and subject to limited control or supervision by the Tax Administration Bureaus. This arrangement obviously does not promote consistency in operating methods or overall policies in tax administration. It also lends itself to improper practices on the part of tax office chiefs in the way of political favoritism and graft, as the local chief has, with certain exceptions, the final word in the settlement of all tax controversies arising in his area.

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As the initial step in a reorganization program designed to bring about centralized control of tax administration, the Inspection Division was organized during recent months. There are at present approximately 300 inspectors assigned to this Division and attached to the various Tax Administration offices. The personnel assigned to this Division are selected from the technically trained tax officials in the local and regional offices and from graduates of Government operated schools. Future appointments will be governed by rigid rules as to qualification. All applicants who satisfy the educational and experience requirements will be screened to eliminate men of questionable integrity or bad character, and those known to be associated with subversive organizations.

It is the duty of the personnel assigned to the Inspection Division to examine books and records of the larger and more important taxpayers, particularly those suspected of fraud or evasion, for the purpose of determining their correct tax liability. It is anticipated that most of the cases selected for prosecution will be developed by the Inspection Division. Instructions issued, governing the procedure to be followed in handling cases examined by this Division, provide that a taxpayer may protest the inspector's findings, and that such protest will be considered by the Inspection Division. In the future, it may be necessary to establish in each regional office a small group of specially qualified and trained men to handle protests.

After a taxpayer's tax liability has been finally determined, his case is transferred to the appropriate local tax office for collection of the tax found due. The local tax office chief cannot thereafter change the amount of the tax liability so determined. Thus, the first step has been taken toward curtailing the power of the local tax office chief to change a tax after it has been determined in an orderly manner.

Because the inspectors are specially qualified and, in most cases, educated in accountancy, the new division has been quite successful in bringing to light additional tax that should be collected. The trained accountant is able to determine the amount of income earned by a taxpayer, even though records may be inadequate or totally lacking. This division has worked out a plan for the investigation of returns of large corporations which have branches in various parts of Japan which heretofore have been given little or no consideration by local tax officials.

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# CHAPTER II

## ASSESSMENT AND COLLECTION OF TAXES

### 1. General

A uniform method is employed in the assessment and collection of all classes of taxes, both direct and indirect.

The various returns are received from the taxpayers, by the direct or indirect tax section of the local tax office. They are audited, accepted as filed, and either increased or decreased. The returns are then routed to the General Affairs Section where they are formally assessed by listing the liability shown on the return on a record knows as the "collection record". This contains one collection record sheet for each taxpayer, for each class of tax, and for each period of liability. The sheets are maintained in alphabetical order in binders of approximately 100 accounts to a binder.

Current taxes are payable to the Bank of Japan, national treasury agencies or post offices. Some local tax offices have branches of the Bank of Japan located in the tax office for the payment of current taxes. At the time a taxpayer makes payment of a current tax at a bank or post office, he prepares a set of forms, classified as "notice of payment", "notice of receipt" and "receipt". The three documents are authenticated by the receiving agency. The receipt is given to the taxpayer. The notice of receipt is forwarded to the local tax office for use as a posting voucher. The notice of payment is retained in the files of the receiving agency. The amounts shown on the notice of receipt, as having been paid, are hand posted to the collection record maintained by the general affairs section of the local tax offices. Accounts not paid on due dates are transferred to a delinquent collection record.

### 2. Delinquent:

The taxpayers whose names appear on the delinquent collection record are advised of their arrears by post card requesting immediate payment. In the event payment is not made within the time prescribed, a set of forms such as is used in case of payment at a bank or post office is prepared by the general affairs section. A representative of that section calls on the taxpayer personally and attempts to make collection. If collection is made the receipt is handed to the taxpayer. The notice of receipt and notice of payment are returned with the payment to the general affairs section.

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With respect to both direct and indirect taxes, in the event returns are not filed, the chief of the local tax office is required to prepare the returns. He should also correct returns if they are found to be incorrectly filed. The tax shown as due on a delinquent or additional return shall be assessed and collected in the same manner as is applicable in the case of the current tax, with the exception that delinquent tax may be paid to the local tax office only. Interest applies to delinquent assessed taxes at the rate of 20 sen per ¥100 per day, from date of demand notice date of payment. These provisions are applicable to the new transactions taxes as well as to other indirect taxes. At an early date the tax officials should contact all taxpayers to which the transactions tax is applicable. If it is found that insufficient tax has been reported, reassessments should be made and collections made in the ordinary manner.

3. Other Records:

There is one other basic accounting record maintained in a local tax office. This is the control record maintained in the general affairs section. This record is the control of all accounts of the office, direct and indirect taxes of all categories, broken down into classes. All debits are posted daily. Likewise all credits consisting of payments, cancellations and taxes written off as uncollectable are posted daily. The collection records must be kept in agreement with this control. The periodic reports to the Regional Finance Bureaus are made from data shown on this record.

4. Indexes and Files:

The tax returns when received in a local tax office are placed in alphabetical order. The filing is progressive. When a considerable number of returns are received they are placed in looseleaf binders, approximately 100 returns to a binder. The files are maintained on the basis of tax period. The income tax returns are further broken down to cities and villages. The collection record sheets mentioned in the assessment and collection section of this report are likewise maintained in alphabetical order. This method of filing returns and maintaining accounting records is adequate for offices that receive only a few thousand returns annually. However, it is reported, that in the offices receiving from 10 to 20 thousand personal income tax returns per annum, much difficulty and loss of time is experienced. It is believed a modified numerical system, such as is employed in the United States would work to a considerable advantage in the large offices.

5. Cancellation of Assessed Tax:

Accounts may be cancelled after assessment under these conditions: Amounts not is excess of ¥200,000 may be cancell-

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ed by the chief of the local tax office. Those in excess of ¥200,000 must be forwarded to the respective Regional Finance Bureau for approval. Accounts which can not be collected due to lack of assets may be written off by the chief of the local tax office. When once written off as being uncollectable, collection cannot be made at a later date.

6. Example: Problem

Sample Farmer' Income Tax

A typical farmer has 15 tan of second class land, a family of 5 dependents plus one son who earns ¥3,000 monthly or ¥36,000 yearly from a salaried job at a factory, and who has one dependent himself.

Tax office estimation of income from this land varies from 64,800 to 85,000 yen, but as a sample case we select ¥70,000 as the land income.

The son lives with his parents, so his income is taxable as part of the family income, and must be added to the land income and any other income before computing income tax. But all salaried persons are allowed a 25% reduction of gross income before figuring taxable income, so 36,000 x 75% = 27,000 = income before basic deduction.

Father and son's income before basic deductions: 70,000 + 27,000 = 97,000.

Subtract basic deduction of 10,325 per taxpayer. There are two taxpayers, father and salaried son.

10,325 x 2 = 20,650

97,000
-20,650
76,350 = taxable income

The taxable income is taxed piecemeal as follows:

| | | |
|---|---|---|
| 20% tax on 1st 20,000: | 20,000 x 20% | = 4,000 |
| 25% tax on 2nd 20,000: | 20,000 x 25% | = 5,000 |
| 30% tax on next 30,000: | 30,000 x 30% | = 9,000 |
| 35% tax " " 30,000: | 6,350 x 35% | = 2,222 |
| taxable income = | 76,350 tax | = 20,222 |

For each dependent a deduction of 1,195 is made from the tax. There are five dependents of the father and one of son or six (6).

1,195 x 6 = 7,170

tax = 20,222
deduction = -7,170
tax = 13,052

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But the son has already paid a withholding tax, and whatever has been paid is deducted from the family taxes. Withholding tax was computed in this manner:

36,000 x 75% = 27,000
-10,325 (basic deduction)
16,675

16,675
x 20%
20% tax rate on 1st 20,000 = 3,335
dependent deduction = -1,195
2,140 = withholding tax paid by son

family tax = 13,052
withholding tax previously = 2,140
total tax due ¥ 10,912

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# CHAPTER III

## PROCEDURES FOR FILING, REASSESSMENTS, DELINQUENCIES AND SEIZURE OF PROPERTY

### 1. General

In order to better understand the actual workings of a local tax office, it is desirable to follow procedure from the time of the filing of the first income tax provisional return, to the seizure and sale of property if proper payments are not made.

### 2. Normal Procedure for Correctly Filed Returns

Tax forms and payment forms are made available to taxpayers through local tax offices. This is done by distribution of the forms in public places or to business associations, such as agricultural co-op associations, etc.

Taxpayers must file the provisional or final reutrn with the local tax office. This can be done either directly or by mail, and action must be completed on or before the due date.

All subject taxpayers, except farmers, must file a provisional return on or before 30 June. This return will be based upon the actual income received from 1 January to 30 May. If there is any change in income between 30 May and 30 September, a corrected provisional income return must be filed prior to 31 October. Payment of taxes are to be made three times during the year. The first payment must be made on or before 30 June, the second installment on or before 31 October, while the final third will be paid on or before 31 January of the following year. Credit is taken on the January payment for all payments made on the provisional returns.

The tax liability should be paid on or before the due dates for returns. This is accomplished with the three section receipt form in the manner described in, "Assessment and Collection of Tax."

The self-assessed income tax return, provisional or final, is sent to the direct tax section. An employee in that office examines the computations and after deciding that no reassessment is to be made, the taxpayer's name, address and tax liability is listed on a control sheet. The control sheet, containing data from several returns with the accompanying returns, after being approved by the chief of the tax office, is transmitted to the general affairs section.

The general affairs section posts the tax liability as shown on the return and as app roved, to the collection records.

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The collection records pertaining to income tax are arranged according to taxpayer's residence, such as city, village or town, and the taxpayers names are then listed in alphabetical order. At the same time the number and arrangement of the collection record posting is noted on the margin of each return.

The head of the general affairs section or a competent official of the section, checks the posting and the return, and marks the return "collection approved". It is then returned to the direct tax section.

Daily balances for assessments are posted into a control record, which represents the year's assessments to date. The daily balance is classified into sub-control records showing each type of tax and the Year's assessments to date.

The same procedure is followed in case of a revised provisional return or final return, according to the increased or decreased tax liability.

When the local tax office receives the payment information from the post-office or bank, the general affairs section credits the payment to the taxpayer's account in the collection record, and then posts the daily balance of collections into the control and sub-control records.

3. Procedure Relative to Reassessment

The procedure followed for reassessment is the same as outlined in the foregoing section with the following exceptions:

When the direct tax section determines that a return is incorrect, it corrects the return by means of a reassessment, decides the amount of increased tax due, the amount of penalty, and the interest.

The taxpayer is notified of the fact that the additional tax is due. This is called a reassessment notice and the taxpayer has an opportunity to come to the tax office for protest.

The reassessment is usually determined by comparison with other similar businesses or with data obtained from associations. Usually the taxpayer is not aware of the method of determination by the tax office, but is only aware of the amount of reassessment. It is only after the taxpayer has received the reassessment notice and protests the tax, that the computations are explained.

A conference may be had with the chief of the tax office, or with a lesser official.

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The return as corrected, together with the control sheet as previously described, after being approved by the chief of the tax office, is then transmitted to the general affairs section where the posting procedure previously described is followed. This reflects the reassessed amount.

4. Procedure Applicable when no Return or Late Return is Filed

a. In case a taxpayer fails to file a return, the direct tax section makes an assessment.

b. If a taxpayer files his return after the due date, he must on filing, pay the tax, penalty, and interest, directly to the local tax office.

5. Procedure Relative to Delinquencies

The following procedure is taken if a taxpayer files a return, receives a reassessment notice of the tax payment information and does not pay the tax by the appointed date for payment.

The general affairs section issues a demand which informs the taxpayer of the amount of delinquent tax due. This amount includes the charge of demand, (costs) and the arrears. In addition, the demand advises the taxpayer of the place of payment, which is usually the local tax office. It also carries a warning that seizure of property shall be made if the tax is not paid.

The amount of the demand including penalty, interest, and costs is entered by the general affairs section in a special book for delinquencies.

If the taxpayer, having received the demand, does not pay the tax by the appointed date, the general affairs section proceeds with the seizure of the taxpayer's property.

6. Procedure Relative to Seizure of Property:

Notice in writing must be served on the taxpayer in person by a representative of the tax office. The notice must advise that the property will be seized for sale unless the delinquent tax is paid immediately. If the tax is not paid within six days from the date of notice, the property may be seized.

Necessary formalities such as witnesses, etc, must be followed in seizure and sale of properties.

The property remains under seal on the premises where seized, unless the chief of the local tax office deems that it should be removed to a warehouse.

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Tools in trade and the minimum daily necessities such as necessary household goods, clothing and food required for three months are exempt from seizure.

Public notice is given of the sale through official notice in at least one newspaper, and by posting on the bulletin board of the local tax office. This notice shows date, place of auction, and property to be sold. The date of the auction shall be at least ten days after the notice.

If the minimum price as set by the local tax office is not bid for the seized property, it may be revalued and another sale held, or the government may take it over at the appraised price.

7. Excess Payment or Mistaken Payment:

The amount paid by a taxpayer in excess of the amount specified on the return and approved by the local tax office, is posted in a book for disposition of "Excess or Mistaken Payment", and is noted in the collection record.

These excess amounts may be applied as a payment on the tax liability of the following period. In the event there is no tax to be paid in the following period, or on the request of the taxpayer, the amount is immediately paid back to the taxpayer.

In the event the local tax office issued the demand or reassessment notice, the excess amount paid shall be credited with interest at a daily rate of 10 sen per ¥100.

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## CHAPTER IV

## DETAILS OF SURVEILLANCE

1. Military Government surveillance of Japanese tax collections will be limited to the regional financial bureaus and the local tax offices of the national government. Major emphasis will be placed on the administration of the personal income tax (withholding and self assessed) as the potential revenue from this source is a major portion of the ~~estimated~~ tax revenue for the fiscal year 1949-50.

2. Close surveillance by military government personnel is desired of the manner in which Japanese tax authorities enforce the filing of income tax returns and payment of the tax. Provisional income tax declarations for the fiscal year 1949-50 under the Japanese Income Tax Law, as amended, are due in June and October 1949 and the final return is due on 31 January 1950. During the fiscal year which ended 31 March 1949, Japanese tax authorities were negligent in the enforcement of provisional income tax declaration requirements. Reassessment and penalty notices were issued only after the final returns, due 31 January 1949, were filed. Under the Japanese Tax Law, as amended, reassessment and penalty notices may be issued following non-compliance by taxpayers with quarterly provisional tax declaration requirements. Property of taxpayers, which has been attached for failure to pay taxes, may not be auctioned until after the final return, due 31 January of the ensuing year, has been filed and notices sent out for payment ignored.

3. Surveillance will be exercised to insure the collection of delinquent taxes of previous years as well as taxes currently being assessed and becoming due. A list of delinquent taxpayers should be procured from each local tax office chief. The list should show the name and address of the taxpayer, classification of tax in which he is delinquent, and the amount. The list should be kept current and upon visits to the local tax offices inquiry should be made to see that proper action is being taken to insure collection. In the past it has been found that in some local tax offices there are delinquent accounts which have been inactive for many months or years. In other cases it was ascertained by investigation that the taxpayers had long since paid the tax and held receipt therefore.

4. In order to obtain better working conditions in local tax offices, all employees of each local tax office should be assembled periodically for a talk by the tax surveillance officer. Emphasis should be stressed on the importance of their work. There should be a code of ethics for tax office employees, which, among other things, should require them to conduct themselves in a manner befitting

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their positions. Instances have occured in which tax office employees have been arrested for accepting bribes. Employees should refrain from attending parties given by taxpayers whose ulterior motive is the derivation of relief from the payment of taxes rightfully due from them. Employees who deal with taxpayers should do so in a courteous manner. Taxpayers who come to tax offices for information or to protest reassessments should not be brushed off with the statement that they are too busy. This attitude has caused many taxpayers to lend a ready ear to communists or other anti tax organizations. Tax office employees are National Government employees and as such they are representatives of the taxpayers as well as the government. They should be courteous.

c. The tax surveillance officer should hold a meeting once a month with all of the local tax office chiefs, together with their three section chiefs. It might be well to rotate the meetings in the local tax offices, and have the chief in whose office a meeting is being held act as chairman. All of the chiefs and their section chiefs should participate in the meeting. These meetings should provide a good opportunity for a discussion of ideas, problems, etc. Good ideas for education and publicity, as well as many other benefits should be realized from such meetings.

5. All informational and publicity data transmitted through technical channels to local military government teams will be accorded prompt dissemination within their respective areas. Surveillance of taxpayer education to include taxpayer morale and compliance with tax laws may be achieved by the following implementation:

a. Tax surveillance officers will request the prefectural officials, governors, mayors, etc., in the respective areas to lend their support toward securing effective standards in their areas. They should be requested to make addresses to taxpayer groups in which emphasis is stressed on their patriotic duty to pay taxes; why they must be paid; what happens to their tax money when it is paid and the benefits they derive therefrom, which they can not purchase themselves. Benefits include police protection, education for their children, roads, etc.

b. Tax surveillance officers will request all local media to give widest publicity to news of tax evasion cases. Calendars should be put out giving important dates throughout the year for taxes, filing, payment, etc.

c. As a part of the publicity program taxpayers should be encouraged to keep books. Such slogans as "It is good business to keep books" and "It is patriotic to keep books" might be used, as well as others. If books are kept which clearly reflect income, and returns are filed showing such income taxpayers will not receive reassessments that

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are unreasonable or exhorbitant. However, two or more sets of books is prima facie evidence of intention to evade taxes. At the present time the Japanese Income Tax Law does not required taxpayers to keep books. It is believed that the laws will be amended very soon to include such requirements, as in the United States law.

6. Close surveillance will be exercised on the progress made in the development of suspected tax evasion cases. Where evidence of tax evasion is found by local tax office officials the case should be referred immediately to the director of the regional finance bureau, who will assign it to the inspection division in his office. It is the duty of the inspector to whom the case is assigned to procure all evidence of tax evasion he is able to develop before the case is turned over to the procurators. In the development of tax evasion cases very close cooperation between local tax office officials, regional financial bureaus and procurators is of utmost importance. Any lack thereof coming to the attention of tax surveillance officers should be reported immediately to higher headquarters. Procurators should be urged to vigorously prosecute the cases turned over to them. Tax surveillance officers should procure a list of tax evasion cases being worked on from each local tax office, and follow each case through to the conclusion reached. Local tax office chiefs no longer have authority to make compromise settlements with taxpayers suspected of tax evasion.

7. Officers who are newly assigned to tax surveillance work should familiarize themselves with the tax files in the office to which they are assigned. The principal report to be prepared and submitted by the tax surveillance officer is the Monthly MG-13 Report called for in Eighth Army Operational Directive Number 48, dated 17 August 1948. From time to time there will be special reports called for by higher headquarters.

The tax surveillance officer should visit each local tax office in his prefecture at least once every two weeks. The following is the general procedure to be followed during each visit:

a. Present himself to the chief of the local tax office.

b. Make inquiry as to the progress being made in tax collections.

c. Hold a general discussion and find out what problems are being encountered.

d. See that publicity and education programs are being carried out.

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Each tax surveillance officer should map out a program to be followed in his respective prefecture. Since the Military Government Team tax surveillance officer is under the general supervision of the tax officer assigned to the Military Government Region in the area, his problems should be discussed with the region tax officer. This may be done by telephone or by means of visits made between the two offices.

8. All Japanese tax officials should be thoroughly and constantly reminded of the fact that tax collection and administration is their job. Military Government will not be in Japan indefinitely. The Japanese should utilize the present opportunity as a period of training for the time when they will have to perform the job themselves. It has been demonstrated that taxes can be collected, and the continuance thereof after military government leaves will be up to the Japanese.

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# CHAPTER V

# JAPANESE LEGAL STRUCTURE

## 1. GENERAL

Tax surveillance officers must have a basic understanding of the procedure involved in recommending a tax evasion case for prosecution. Inasmuch as a tax prosecution case centers around the work of the procurator assigned to tax cases, an understanding is necessary of the Attorney General's Office with which he is associated.

## 2. ATTORNEY GENERAL'S OFFICE ORGANIZATION PERTAINING TO TAX CASES

Chart "A", has been set up to show only those parts of Offices of the Attorney General and Public Procurator which are concerned with tax matters. Starting at the top of the chart, it can be seen that the Attorney General is responsible only to the Diet. He has a prosecution assistant and a prosecution bureau which directly assist him on prosecution matters particularly from an administrative viewpoint. The litigation assistant and the tax litigation bureau are concerned only with civil cases.

The Procurator General is shown as coming directly under the Attorney General. The Attorney General may give general instructions affecting any of the public procurator's offices, however if he desires information on any particular case he must go directly to the Procurator General. There is one Assistant Procurator General, and one tax procurator is assigned to the Assistant Procurator General's office. This tax procurator is concerned with prosecution of tax cases that eventually reach the Supreme Court level.

Next shown is the High Public Procurator's Office where there are nine (9) tax procurators, called "Superintending Procurators" assigned at regional level. One is assigned to each of the High Court Jurisdictions at Tokyo, Osaka, Nagoya, Hiroshima, Sendai, Sapporo, Takamatsu, and two are assigned at Fukuoka.

There is at least one tax procurator, who is called "procurator", assigned to each prefectural district, with two or more assigned to the Tokyo, Osaka and Fukuoka Districts. As there are no tax procurators assigned on the local public procurators office level, all tax prosecution cases arising in the local areas are referred to the district tax procurators. The local public procurators are called "assistant procurators".

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3. COURTS AND APPEALS

The courts having jurisdiction in tax cases are the Supreme Court, High Court, District Court and Summary Court. The general composition of these courts and their appeal jurisdictions are shown in Chart "B".

4. EVIDENCE

The admissibility of evidence for the prosecution of tax cases as it is understood in the States has not and does not exist in Japan. Until the beginning of 1949 when the new criminal procedure code went into effect, alleged facts could be proven by hearsay at the discretion of the Judges or Judges. This means that a judge or a collegiate court of Judges could decide, without a jury, whether or not the evidence submitted was admissible or non-admissible.

Under the new criminal procedure code now in effect the admissibility of evidence is stated in Articles 317 to 328 inclusive. The main principles may be summarized as follows:

a. Facts shall be found on the basis of factual evidence (Art. 317). This does away with hearsay evidence.

b. The probative value of evidence shall be left to the free discretion of Judges (Art. 318).

c. A conviction cannot be sustained on the uncorroborated confession of an accused regardless of whether or not same is made in open court. Also confessions made under duress, or involuntarily, shall not be admitted in evidence (Art. 319).

d. With certain exceptions, no document shall be substituted as evidence for an oral statement of any person in public trial court (Art 320).

e. Written statements made by a person other than the accused, may be introduced in evidence under certain circumstances such as the death, subsequent unsound mental condition, disappearance, absence from the jurisdiction of Japanese Courts, or physical incapacity to testify of such persons or to attack the credibility of testimony given by him as a witness. (Art. 321, 328).

f. A written record of inspection prepared by a public procurator, a secretary of the Public Procurators Office or a Judicial Police official may be used as evidence if it is verified by the individual preparing it (Art. 321).

g. Under certain circumstances, a written voluntary statement against his interest made by the accused may be introduced as evidence. (Art. 322)

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h. Account books, public documents and other records prepared in the regular course of business may be used as evidence (Art. 323).

i. Any evidence may be introduced if the public procurator and the accused consent thereto, provided that the court finds it proper after considering the circumstances under which such evidence was obtained (Art. 326).

5. EXAMINATION OF WITNESSES

In regard to the examination of witnesses, the Court may examine any person as a witness (Art. 143, Capt XI, Criminal Procedure Code). Exceptions: A witness may refuse to answer when:

a. The answer might tend to be self incriminating. (Art.146).

b. The answer might tend to incriminate the following persons:

(1) The spouse, a relative by blood within the third degree of relationship, or a relative by affinity within the second degree of relationship of the witness, or a person of such relationships to the witness (Art. 147 - (1)).

(2) The guardina, supervisor of guardianship or curator of the accused (Art. 147 - (2)).

(3) A person of whom the accused is guardian, supervisor or guardianship or curator (Art. 147 - (3)).

c. Certain persons, such as doctors, dentists, midwives, nurses, religious functionaries, etc., are also permitted to refuse to testify in respect to information revealed to them in their professional capacities (Art. 149).

Cross examination of witnesses is provided for in Article 304.

6. SEARCH AND SEIZURES

Article 99 of the new Criminal Procedure Code provides that whenever necessary, with certain exceptions, a court may seize any articles which it believes should be used as evidence.

Article 100 provides for seizure of postal matters and telegrams in possession of the government or of a private communication company.

When deemed necessary, a court may search the person, effects, or dwelling or any other place of the accused (Art. 102).

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Article 106, provides that a warrant shall be issued for a seizure or search to be effected elsewhere than in open court.

Article 107 states that a warrant of search of seizure shall contain the following information:

(1) Name of accused and offence.

(2) Articles to be seized, or place, body or articles to be searched.

(3) The effective period, of the warrant. A statement must be made that the warrant shall not be used in any manner after the court of issuance.

(4) Date of issuance, and any other matters as prescribed by the Rules of Court.

(5) Signature and seal of presiding judge.

A warrant of search or seizure shall be executed by a secretary of a public procurator's office, or a judicial police official or constable under the direction of a public procurator (Art. 108).

The warrant shall be shown to the person against whom the measure is to be taken (Art. 110).

Before sunrise and after sunset, the dwelling of a person, or premises, buildings or vessels guarded by persons, may not be entered for the purpose of execution of warrant of search or seizure unless the warrant includes a statement that it is to be executed at night (Art. 116). There are some exceptions to the above.

CHART "A"

THE ATTORNEY GENERAL'S OFFICE ORGANIZATION PERTAINING TO TAX CASES






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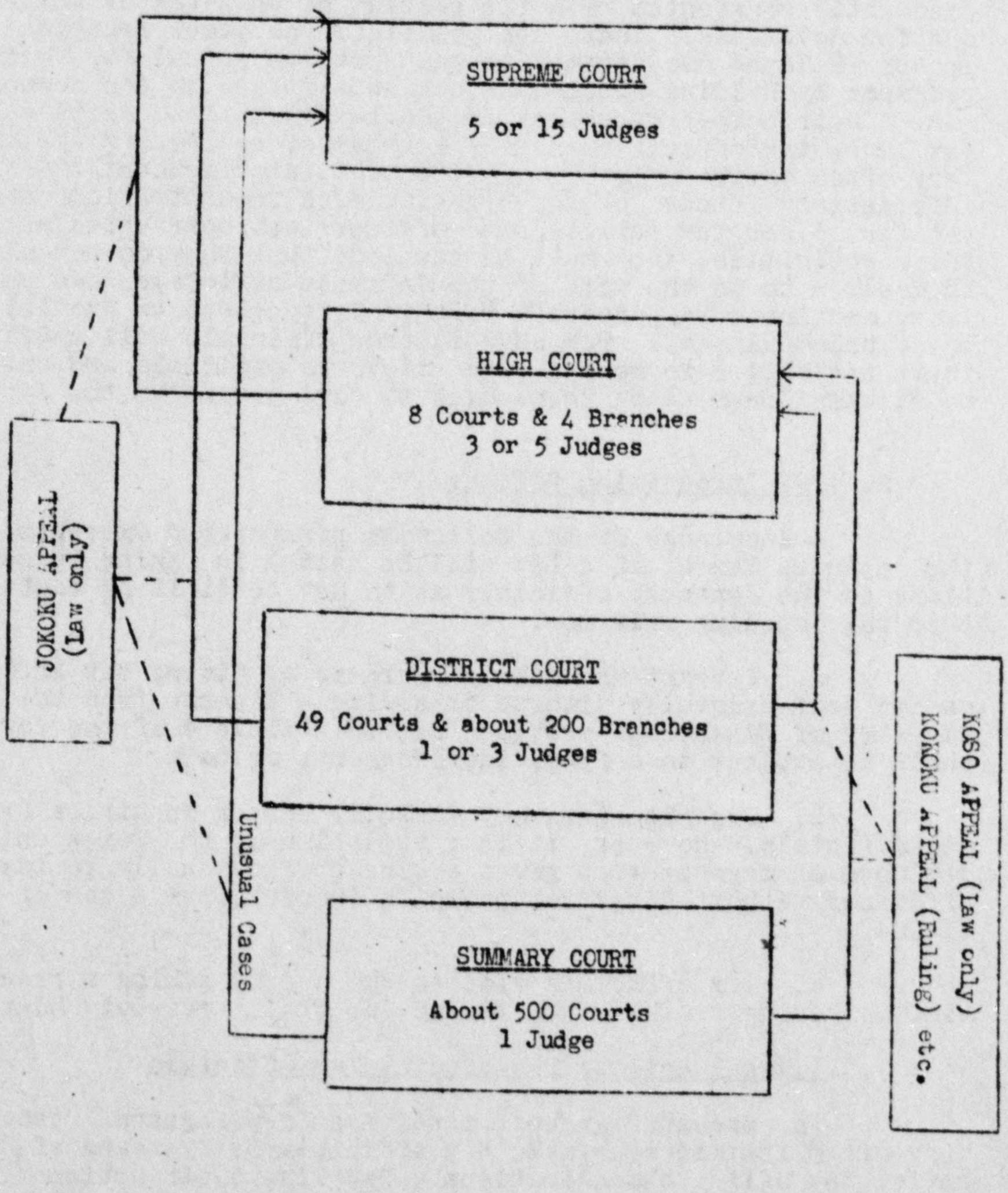
CHART "B"

COURTS AND APPEALS



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# CHAPTER VI

# ANTI-TAX AND TAX REDUCTION MOVEMENT

## 1. General

Military government tax surveillance officers are frequently confronted with the problem of anti-tax or tax reduction movements. There are political and other organized groups in Japan who attempt to gain popular appeal for their programs by holding themselves out as a friend to the common man. Their method of appeal in the taxation field is to deride tax laws, tax officials and the methods of collecting the taxes. Very often their activities include the establishment of Tax Information Offices; or they promote mass demonstrations and parades. When tax surveillance officers are confronted with these activities, they must be cautious that they do not allow themselves to do the work of the Japanese officials. Japanese laws, mentioned in paragraph below, are adequate to prohibit these unlawful acts. Tax surveillance officials will confine their activities to making suggestions to officials and under no circumstances allow themselves to give orders to the Japanese.

## 2. Tax Information Offices

A knowledge of the following paraphrased excerpts of the Japanese Tax Agent's Law will be useful in making suggestions to the Japanese officials as to how to limit or control this tax impeding nuisance:

a. Persons who make a business of giving tax information professionally without obtaining a license from the Ministry of Finance as provided for in article 4 of the law shall be subject to a fine, imprisonment, or both.

b. Organizations may lawfully answer inquiries from tax officials. However, it is a violation of the Tax Agent's Law when an organization gives advice professionally to tax officials without first receiving an inquiry from a tax official.

c. Tax officials violate the law by making a practice of giving professional tax advice during off-duty hours.

## 3. Illegal Actions Directed at Tax Officials

The pressure groups, mentioned in paragraph 1 above, very often intimidate single tax officials or by means of entire tax office demonstrations. Usually, their actions are criminal under one or more of the following Japanese laws:

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a. Article 95 of the Criminal Code provides that any person, who commits acts of force or coercion against a public official when he is carrying out his official duties, may be sentenced to not more than three years' hard labor.

b. Article 222 of the Criminal Code provides that any person who intimidates others by threatening bodily harm, his liberty, honor, or property may be sentenced to not more than two years at hard labor.

c. Article 130 of the Criminal Code provides that any person who enters another person's residence, residential property under guard, or building, or who will not leave such a place after being requested, commits a trespass and may be sentenced to not more than three years of hard labor. (The Japanese courts interpret this law to cover public tax offices.)

d. Article 204 of the Criminal Code provides that any person who causes bodily injury to a person may be sentenced to not more than ten years at hard labor.

e. Article 220 of the Criminal Code provides that any person who captures or confines any person illegally is guilty of false imprisonment and may be sentenced to not more than five years at hard labor.

f. Article 230 of the Criminal Code provides that any person who defames the honor of another in public may be sentenced to not more than one year at hard labor. It is immaterial whether the statements made are true or not.

g. The Japanese "Law Regarding Punishment For Acts of Force" may be invoked in cases where individuals or groups are exerting pressure against Japanese officials.

(1) Article 1. Those who stimulate a group or gathering or display lethal weapons or commit certain enumerated crimes as defined in the Criminal Code may be sentenced to not more than three years at hard labor.

(2) Persons who insist on a meeting or commit an act of preemptory demand in a manner stated in Article 1 for the purpose of financial advantage may be sentenced to not more than one year at hard labor.

(3) A person who presents money, goods, capital profits, or favors, or persons who receive such offers when they know that they are tendered for the purposes of making others commit certain enumerated crimes, shall be sentenced to not more than six months at hard labor.

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4. United Nations Nationals

Most United Nations Nationals are aware of their responsibilities for paying Japanese taxes. However, it can be anticipated that from time to time individuals or groups of United Nations nationals will protest their liabilities for taxation. Three directives contained in Chapter VIII of this manual may be suggested to Japanese officials when United Nations nationals object to taxation. They are SCAPIN 777, dated 26 February 1946, SCAPIN 4938-A, dated 29 December 1947, and Memorandum, "For All Japanese Officials Concerned With The Tax Collection And Enforcement of Tax Laws in I Corps Zone of Responsibility", Headquarters I Corps, dated 21 December 1948.

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# CHAPTER VII

# TAX DIRECTIVES

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

AG 015 (26 Feb 46)LS
(SCAPIN - 777)

APO 500
26 February 1946

MEMORANDUM FOR: IMPERIAL JAPANESE GOVERNMENT.

THROUGH : Central Liaison Office, Tokyo.

SUBJECT : Exercise of Civil Jurisdiction.

1. a. Japanese tribunals will henceforth exercise no civil jurisdiction with respect to United Nations nationals or organizations (including corporations) attached to or accompanying the Allied Armed Forces.

b. Deleted by SCAPIN 1218, 19 Sept 46.

2. a. Decisions in all civil cases affecting other United Nations nationals or organizations, or in which such nationals or organizations are or may become parties, shall be subject to review, including revision or such other action as may be considered necessary, by the Supreme Commander for the Allied Powers or his authorized representatives.

b. The Supreme Commander for the Allied Powers or his authorized representatives will take such steps as are deemed necessary, including suspension of proceedings, to ensure that in the conduct of such civil cases the rights of the United Nations nationals or organizations parties thereto are adequately protected.

3. The Imperial Japanese Government will immediately report to the Supreme Commander for the Allied Powers, all civil cases hereafter instituted or now pending in Japanese tribunals affecting United Nations nationals or organizations (including corporations). Such reports will include names and nationalities of the parties, nature of the case, the relief sought and the status of the proceedings.

4. The Japanese people and other persons in Japan will be informed of this directive.

FOR THE SUPREME COMMANDER:

/s/ B. M. Fitch
/t/ B. M. FITCH
Brigadier General, AGD,
Adjutant General

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

APO 500
29 November 1947

AG 012.2 (29 Nov 47)ESS/FI
(SCAPIN 4938-A)

MEMORANDUM FOR: JAPANESE GOVERNMENT

THROUGH: Central Liaison Office, Tokyo

SUBJECT: Applicability of Taxes to Non-Japanese Nationals

1. SCAPIN 1826-A, dated 25 July 1946, subject: "Applicability of Ordinary Taxes to Non-Japanese Nationals," is hereby rescinded.

2. There is no objection to the applicability of local and national taxation to non-Japanese nationals except as specified in paragraph 3 below, provided that such taxes are not discriminatory against non-Japanese nationals. No tax, primarily designed to meet reparations or other charges falling upon the Japanese Government as a result of the war shall be imposed by the Japanese Government upon United Nations nationals or their properties.

3. No tax will be imposed by the Japanese Government on the official salaries of military personnel, or civilians attached to the occupation forces, and of accredited personnel of foreign diplomatic missions, delegation and other official representation attached to the Supreme Commander for the Allied Powers, No tax based upon or measured by income lawfully received in non-yen currencies will be imposed by the Japanese Government. This shall not however be construed to prohibit the taxation of SCAP employees or SCAP licensee employees paid in yen currencies.

4. Direct communication between the Ministry of Finance and interested staff sections of this Headquarters is authorized to implement the provisions of this memorandum.

FOR THE SUPREME COMMANDER:

/s/ C. 2. Shugart
/t/ C. 2. SHUGART
Colonel, AGD,
Asst. Adj. General.

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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 343

(OPERATIONAL DIRECTIVE) 17 August 1948
NUMBER. . . . . 48)
48/1 incorporated

SURVEILLANCE OF JAPANESE TAX ADMINISTRATION

1. Surveillance of Japanese tax administration by military government teams and reinforcement teams attached for use in this work has been one of the primary factors responsible for the excellent tax collection record for the fiscal year 1947-48.

2. The revised Japanese tax law of July 1948, providing for tax revenue for the fiscal year 1948-49, calls for a greatly expanded tax program. In order to assure successful accomplishment of this program, military government surveillance of Japanese tax administration has been extended indefinitely.

3. The Taxation Bureau of the Japanese Government has not issued monthly tax collection goals to each of the regional financial bureaus for re-allocation among local tax offices within their respective areas as was done during the fiscal year 1947-48. A breakdown of the total tax revenue estimates budgeted for the fiscal year 1948-49 is contained in paragraph 4 of inclosure 1.

4. Details of Surveillance.

a. Military Government surveillance of Japanese tax collections will be limited to the regional financial bureaus and the local tax offices of the national government. Major emphasis will be placed on the administration of the personal income tax as the potential revenue from this source is a major portion of the estimated tax revenue for the fiscal year 1948-49. Information relevant to the revised tax law of July 1948 is contained in Inclosure 1.

b. Close supervision by military government units is desired of the manner in which Japanese tax authorities enforce the filing and payment requirements of the July income tax returns. The first provisional income tax declarations for the fiscal year 1948-49 under the Japanese Income Tax Law as amended were due by 31 July 1948. During the past year Japanese tax authorities were negligent in the enforcement of provisional income tax declaration requirements. Reassessment and penalty notices were issued only after final income tax returns were filed. Under the

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Japanese Income Tax Law, Reassessment and penalty notices may be issued by the Japanese tax authorities following non-compliance by taxpayer with quarterly provisional tax declaration requirements.

c. Surveillance will be continued to insure the collection of delinquent taxes as well as taxes currently being assessed and becoming due.

d. In order to obtain greater cooperation by the tax office chiefs and their employees, all employees of each local tax office will be assembled periodically for a brief talk by the surveillance officer. Employees will be briefed concerning the vitally important task they are performing. Talks will also express the necessity for each employee to adhere strictly to directions given by respective tax office chiefs.

e. All informational and publicity data transmitted through technical channels to local military government teams will be accorded prompt dissemination within their respective areas. Surveillance of taxpayer education to include taxpayer morale and compliance may be achieved by the following implementation:

(1) Tax surveillance officers will request the prefectural officials in the respective areas to lend their utmost support toward improving taxpayer standards in their areas.

(2) Tax surveillance officers will request all local media to give widest publicity to news of tax evasion cases, filing dates for tax returns, instructions on filling out tax returns and other tax information.

f. Surveillance will be accorded actions of tax office personnel to improve tax enforcement standards, particularly as they affect prosecution for tax evasion and collection of tax arrears. Tax surveillance officers will discourage responsible tax office personnel from making compromise settlements with taxpayers where conclusive evidence of fraud or tax evasion exists. Where such evidence exist, cases should be prepared for criminal prosecution in local courts. Local procurators may be urged by tax surveillance officers to prosecute such cases vigorously.

(1) Tax surveillance officers will request local tax officers for latest reports on the amount of unpaid taxes. Further inspections will be made to verify that proper action is taken against delinquents.

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(2) Where enforcement action taken by tax officers following expiration of the grace periods takes the form of attachment and auction of taxpayers' assets, tax surveillance officers will insure that adequate publicity is given by tax authorities prior to public auction.

g. Tax officials will be encouraged to provide for in-service training programs for tax office employees.

h. Military government surveillance teams will emphasize the necessity for strict adherence to the Japanese tax laws by Japanese tax officials and employees and the avoidance of arbitrary of rule-of-thumb methods of assessment. For example, it has been reported that Japanese tax officials and employees in computing the personal income taxes of farmers exempt from taxation 50% of the additional income received for early crop rice deliveries and 66 2/3% of the additional income received for excess quota rice deliveries. This practice is completely without legal foundation and is contrary to the existing personal income tax law. All of the income of farmers from crops regardless of source is subject to the same treatment for personal income tax purposes.

5. Reports.

a. Reports (Reports Control Symbol MG-13) will be submitted in duplicate by each prefectural military government team and by each military government team supervising a regional financial bureau, direct to this headquarters (attention: Military Government Section) as soon as practicable after the last day of July 1948 and each month thereafter, not later than the 20th day of the month following the month reported upon. Copies of the reports will be sent to appropriate corps and regional commanders. Reports will be in concise narrative form and include the following information:

(1) Total tax collections made during the month in the geographic area being reported upon.

(2) Major problems of tax administration in each military government area.

(3) Type and extent of operational assistance given to local tax offices and/or regional financial bureaus by Military Government teams. (This will include a summary of visits made, suggestions made to the tax

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office chiefs and other assistance given by the tax surveillance teams to tax officials.)

b. Effective 1 June 1948, collections of delinquent Japanese taxes are being credited to the 1948-49 fiscal tax year. In as much as certain collections made during the months of April and May 1948 were properly creditable to the tax year 1948-49, and other collections during the same months were properly creditable to the tax year 1947-48, the report for August 1948 will include:

(1) Data concerning collections for April and May 1948, segregating the collections into two groups.

(a) Collections creditable to fiscal year 1948-49.

(b) Collections creditable to fiscal year 1947-48.

(2) Total tax collections for June and July 1948, regardless of the fiscal tax year to which originally credited.

6. Operational Directives 4, 21 January 1948: 4/3 for 1948, 30 March 1948; and 4/4 for 1948, 29 June 1948, this headquarters, subject: "Surveillance of Japanese Tax Administration", are rescinded.

BY COMMAND OF MAJOR GENERAL RYDER:

OFFICIAL:

/s/ Chazal
/t/ CHAZAL

W. B. HALSEY
Major General, GSC
Chief of Staff

2 Incls:
1. Summary of Revised Tax Laws of July 1948
2. Supplemental Information Relative to Japanese Tax Collections

(LG-F)

DISTRIBUTION: "X" plus

| | |
|---|---|
| I Corps | 50 |
| IX Corps | 50 |
| BCOF | 20 |
| Each MG Team and Region | 8 |
| AG Section | 60 |

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## SUMMARY OF TAX REVISION LAWS OF JULY 1948

The Japanese Diet enacted significant amendments to the existing taxation laws in early July 1948. The salient features of the new tax legislation included revised personal income and corporation tax rates, increased specific duties on liquor, beer, sake, sugar and other commodities, transfer of the Admission Tax from the national government to the various local governments, and the adoption of a 1% sales-transactions tax. Based upon the revised tax provisions, the 1948-49 Japanese Government General Account Budget lists a total tax revenue estimate of 267,704 million yen, an amount almost twice that of the 135,394 million yen estimate budgeted for the fiscal year 1947-48.

A. Breakdown of Tax Revenue Estimates Budgeted for Fiscal Year 1948-49:

| | | (million of yen) |
|---|---|---|
| Income Tax | | 146,371 |
| Withheld at Source | 38,094 | |
| Self-assessed | 104,277 | |
| *Increased Income Tax | | 500 |
| Corporation Tax | | 13,000 |
| Estate and Gift Tax | | 1,250 |
| Non-War Sufferers Tax | | 887 |
| Liquor, beer, sake Tax | | 45,776 |
| Soft Drink Tax | | 1,647 |
| Sugar Tax | | 362 |
| Textile Excise | | 8,060 |
| Commodity Tax | | 17,508 |
| Sales-Transactions Tax | | 21,400 |
| Travelling Tax | | 2,389 |
| Admission Tax | | 3,035 |
| Security Transfer Tax | | 241 |
| Par - Mutual Tax | | 186 |
| Customs and Tonnage Duties | | 48 |
| Stamp Tax | | 4,990 |
| Special Corporation Tax | | 54 |
| Grand Total | | 267,704 |

*Note - Delinquent tax assessed during fiscal year 1947-48.

B. Revised Personal Income Tax Provisions

1. Basic Tax rates:

| Taxable Income in Yen Per Annum | Tax Rate on Each Successive Bracket |
|---|---|
| 0 - 20,000 | 20% |
| 20,001 - 40,000 | 25 |

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| | | |
|---|---|---|
| 49,001 - | 70,000 | 30% |
| 70,001 | 100,000 | 35% |
| 100,001 | 150,000 | 40% |
| 150,001 | 200,000 | 45% |
| 200,001 | 250,000 | 50% |
| 250,001 | 300,000 | 55% |
| 300,001 | 500,000 | 60% |
| 500,001 | 700,000 | 65% |
| 700,001 | 1,000,000 | 70% |
| 1,000,001 | 2,000,000 | 75% |
| 2,000,001 - | 5,000,000 | 80% |
| Over - | 5,000,000 * | 85% |

Note - The maximum effective tax is limited to 80% of taxable income.

2. The tax liability may be computed by reference to a tax table, at the option of the taxpayer, where gross adjusted incomes do not exceed 220,000 yen.

3. Deductions for earned incomes:

| | | |
|---|---|---|
| Deduction allowed on the first 50,000 yen of earned income for the year | 25% | 25% |
| Deduction allowed on the next 100,000 yen of earned income for the year | 13.5% | 25% |

4. Basic Deductions:

| | For the Calendar Year 1948 Only | Effective 1 Jan 1949 |
|---|---|---|
| Per taxpayer | 10,325 yen | 15,000 yen |

5. Credit Against Tax:

| | For the Calendar Year 1948 Only | Effective 1 Jan 1949 |
|---|---|---|
| Per dependent of taxpayer | | |

6. other deductions against taxable income: Incomes derived from forestry, retirement annuities and capital gains are taxable on only 50% of their amount. Effective 15 June 1948, dividend income is taxable on 85% of the amount of such income.

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7. Special tax rates: The withholding rates on all dividend, interest, and retirement annuity payments is 20%, for both the corporate and non-corporate payers.

8. Payment of Tax:

a. Withholding at Source: Recipients of salaries, wages, dividends, interest and retirement annuities have a portion of their tax liabilities withheld at source. Withholding on salaries and wages is accomplished by the employer on the basis of monthly, weekly and other periodic withholding tables, which are provided for by the Government. As in the United States, the withheld portion will vary with the number of taxpayer's dependents. Unlike the United States, the year-end adjustment of over or under-withholding is accomplished by the employer rather than by the employee. The employer is furnished with a year-end withholding adjustment table. If the individual employee was due a refund for over-withholding, the refund is accomplished by a reduction of future withholding. If the employee owed additional amounts, the employer will withhold the necessary amount in the next withholding period. Note that <u>all</u> compensation, including overtime and bonus payments, is subject to withholding.

b. Self-Assessed and Advanced Estimate Returns. As in the United States, recipients of income not subject to withholding are placed on a "pay-as-you-go" basis through the medium of quarterly advanced estimates of income tax liability and quarterly installment payments thereon. All individuals anticipating annual incomes in excess of the basic exemption of 10,325 yen for 1948 (15,000 yen for 1949) which are not withheld at source are required to file provisional advanced returns by the last day of May, July, October and January (of the year following the taxable year), and are required to pay the computed tax liability in four equal installments. The last return--due by 31 January of the year following the taxable year--serves also as the final return. Farmers are exempted from the advanced estimated return provisions if they can show that more than 70% of their annual income is derived from farming. (Note - Due to the delay in the passage of the revised tax statutes, there are only three provisional advanced returns due for the year 1948. The first 1948 estimate of annual income is due by 31 July 1948, the second by 31 October, and the last and final return, by 31 January 1949.)

9. Penalty provisions. Where a final return is not filed by 31 January, an additional penalty tax of 25% of the amount of tax computed is levied. (In addition, an interest penalty of 10 sen per 100 yen per diem (36.5% per annum) is assessed on all delayed payments. The penalty for tax evasion or fraud is imprisonment up to 3 years, a fine

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of 5 times the amount of tax evaded, or both. The penalty for tax misdemeanors is up to one year imprisonment, up to a fine of 200,000 yen, or both.

C. Revised Corporation Tax Provisions.

10. The tax rate on normal income remains the same (35%) for domestic corporations. The normal net income tax rate applicable to foreign corporations was reduced from 45% to 35%. The 0.5% tax on capital stock was abolished. Excess profits tax rates were reduced as follows:

On annual profits exceeding 30% of invested capital: 10% (formerly 10% on profits exceeding 10% of invested capital)

On annual profits exceeding 50% of invested capital: 15% (formerly 20% on profits exceeding 20% of invested capital)

On annual profits exceeding 100% of invested capital: 20% (formerly 30% on profits exceeding 30% of invested capital).

D. The Sales-Transactions Tax.

11. This is a newly enacted tax. The tax rate is 1% of the value of all taxable transactions at all levels of distribution (manufacturing, wholesaling, and retailing). The tax is payable by the vendor in general.

12. Practically every line of business is subject to this tax, unless it is explicitly excluded. Examples of taxable businesses are: commodity sales, service sales, banking, trust and insurance businesses, money lending, pawn brokerage, transportation, electricity and gas, photography, warehousing, printing and publishing, advertising, amusements, mining etc. The only tax exempt transactions provided for by law are: Sales of government bulletins, stamps, government monopoly items, texts of primary and middle schools, sales of staple foods, vegetables, marine products, miso, shoyu, milk, edible oilds, powdered milk, chrcoal, firewood, pickles and the production and sale of goods which are subsidized by the Government. Also exempt are agricultural, forestry, livestock, daily and marine products grown, raised or acquired by the vendor himself.

13. Payment of Sales-Transactions Tax.

a. Where the taxable transaction is 50 yen or more: The vendor is required to turn over a stamp to the purchaser equivalent in amount to the transaction tax (1%). In turning over the stamp, the vendor is required to cancel the stamp in the presence of the purchaser by affixing a cancellation

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mark or signature upon the stamp. Stamps are obtained initially by the vendor by pre-purchase from post offices, and range in amount from 50 sen to 10,000 yen. Vendors are in addition required to report to tax offices the amount of taxable transactions quarterly. (Such declarations are due by the 10th of March, June, September and December.)

b. Where the taxable transaction is less than 50 yen: The vendor is required to maintain an accurate record of his transactions under 50 yen, and to declare the aggregate amount of such transactions for each quarter, and to pay 1% of that amount in cash to the tax office at the time of such declaration. Returns for the quarters ending on the last day of February, May, August and November are due by the 10th of March, June, September and December, respectively.

c. Where banking, trust, insurance, electricity, gas, radio, broadcasting, railway, tram, shipping, publication, vaudeville, amusement and sightseeing business transactions are involved, stamps are not utilized. In such cases the trader or vendor is required to file a declaration of his aggregate taxable transactions for each month on the 10th of the following month, and to pay 1% of such declared transactions in cash.

14. Rebate provisions: In order to insure and facilitage enforcement of the tax, certain organizations may obtain cash rebates in presenting cancelled stamps in bulk quantities to post offices or tax offices. Organizations of school children or students of primary, middle, high, or college schools, and of members of charitable institutions may collect cancelled stamps from other members of the community and present such stamps for rebates. Rebates are 5% of the face value of cancelled stamps up to 1 yen in denomination, 3% for stamps over 1 yen but not more than 20 yen in face value, and 2% for stamps exceeding 20 yen in face value.

b. <u>Other Major Tax Amendments</u>.

15. The 150% ad valorem Admission Tax (on theater, ball park, race track, and other amusements), hitherto collected by the national government, was transferred to the local governments effective 1 August 1948. The estimate of 3,035 million yen of revenue included in the national government general account budget for fiscal year 1948-49 represents only the receipts from admissions from 1 April through 31 July 1948.

16. The Special Corporation Tax (applicable to cooperative organizations and quasi-public organizations) was abolished effective 1 July 1948. The budget estimate of 54 million yen represents tax liabilities through 30 June 1948.

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17. The Travelling Tax, hitherto a specific duty on rail passenger transportation, was changed to an ad valorem levy. The basic rate is 5% of the transportation charge.

18. The Commodity Tax was revised somewhat. Approximately 20 groups of commodities were shifted from a higher to a lower tax rate brackets, (Approximately 95 commodity groups are distributed among five tax brackets, ranging from 20% to 100% ad valorem on manufacturers' prices; luxury type commodities, such as jewelry, cameras, etc., are taxable at 100%, while more essential goods, such as shoes, clothing, etc., are taxed at 20%.)

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

SUPPLEMENTAL INFORMATION RELATIVE TO JAPANESE TAX COLLECTIONS

1. Japanese Taxes As Applied to Non-Japanese Nationals.

a. Basic policy affecting Japanese civil jurisdiction over non-Japanese nationals is to be found in SCAPIN 777, 26 February 1946, subject: "Exercise of Civil Jurisdiction," and SCAPIN 4938-A, 29 November 1947, subject: "Applicability of Taxes to Non-Japanese Nationals."

b. SCAPIN 777 provides that Japanese courts will exercise no civil jurisdiction over United Nations nationals attached to the Occupation Forces. Negatively, SCAPIN 777 implies that Japanese courts may exercise jurisdiction in civil matters over United Nations nationals and other non-Japanese nationals not directly attached to the Occupation Forces. The only restriction affecting Japanese civil jurisdiction over non-Japanese nationals not attached to the Occupation Forces, is that Japanese court decisions affecting United Nations nationals are subject to review by the Supreme Commander for the Allied Powers.

c. "Civil jurisdiction" as used in SCAPIN 777 includes court action of other than a criminal nature arising from non-payment of taxes or other infractions of Japanese tax laws.

d. SCAPIN 4938-A provides for the applicability of Japanese taxation to all non-Japanese nationals not specifically exempted under the provisions of paragraph 3 of subject SCAPIN. Exemptions under paragraph 3 of SCAPIN 4938-A affect:

(1) Military and civilian personnel attached to the Occupation Forces.

(2) Accredited personnel of foreign diplomatic missions.

(3) Delegations and other official representation attached to the Supreme Commander for the Allied Powers.

(4) Incomes lawfully received in non-yen currencies (includes business organizations licensed by the Supreme Commander for the Allied Powers to do business in Japan in dollars, pounds, guilders, francs and other non-yen currencies).

e. Any exemption from taxation of United Nations or other non-Japanese nationals if provided for specifically in the body of the particular tax law. For example, complete exemption has been provided for United Nations nationals in

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the Capital Levy Tax Law and the Non-War Sufferers Special Tax Law. Partial examption has been granted to such nationals in the War Indemnity Special Tax Law.

f. Koreans are to be treated for tax purposes in exactly the same manner as Japanese nationals.

g. All yen incomes in Japan are taxable.

2. Priority of Claims for Taxes Due in the Liquidation of Assets of Closed Institutions.

a. Taxes due before and after closure are paid as claims and have first priority on the assets of the closed institutions. Where the payment is partial or in full, it is applied against the total tax claim and not against the amount due before or after closure.

b. The general policy is to make tax payments as soon as possible after tax officials and the liquidator reach agreement on the proper amount of payment.

c. Taxes are not ordinarily paid as linquidation expenses.

d. Liquidation expenses are not regarded as claims, however under Japanese law, as well as commercial and civil codes of other countries, the liquidator is permitted to pay expenses of liquidation before allocation of proceeds of liquidation to creditors. Taxation claims have first priority on remaining assets after payment of the liquidation expenses.

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HEADQUARTERS I CORPS
AFO 301 (Kyoto, Honshu) GH/yy

AG 012 - Ba 25 October 1948

SUBJECT: Sales Transaction Tax

TO : See Distribution

1. There exists a widespread evasion of the newly enacted Sales Transaction Tax. This tax of 1% of the sales value of most business transactions should be the source of immense revenue if adequate collection, educational and enforcement programs are accomplished.

2. In order to facilitate the collection of this levy, the Japanese Government has incorporated within the law certain step rebate features (payable to schools and charitable organizations).

3. These rebate features (see CD 48, Incl 1) can be exploited by the Education and Welfare Sections of Military Government Teams to guide Japanese education and welfare agencies in earning revenue for their organizations and thus performing a civic service. As an example, at the present time a Community Chest drive is being conducted throughout Japan which can be given impetus by schools and charitable organizations actively soliciting these stamps.

4. Although the tax may be unpopular, action must be taken by Tax Surveillance Teams to insure collection of revenue from this important source.

BY COMMAND OF MAJOR GENERAL SMITH:

DISTRIBUTION:
2 ea HG Region & Team, I Corps, 2/R
2 AG Rec, I Corps

/s/ C. C. Carter
/t/ C. C. CARTER
Colonel, AGD
Adjutant General

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 343

AGMGF 012 15 December 1948

SUBJECT: Surveillance of Japanese Tax Administration

TO : Commanding General, I Corps, APO 301

1. Reference is made to letter, this headquarters, AGMGX 012, 24 November 1948, subject as above.

2. There will be some further delay in issuing detailed tables of authorization for military government teams which, among other things, will provide for permanent personnel for handling finance and civil property matters, including tax collection surveillance.

3. Considerable concern exists at SCAP relative to the Japanese tax collection situation and every effort is being made there to improve the work of the Japanese officials in this matter. Representations have again been made to this headquarters for maximum practicable efforts by military government teams in expediting the tax collection program. Accordingly, it is desired that by the first week in January 1949, finance and civil property personnel be organized and functioning with permanently assigned personnel in each team as indicated on inclosure No. 1. If conditions warrant in certain areas, this personnel should be reinforced adequately to do the job even at the expense of other economic activities of the teams. Because of the rather technical nature of the work, where practicable, personnel who have had some previous experience and can remain on the assignment for a relatively long period should be employed.

4. * * * * * * *

5. As brought out in the reference of paragraph 1 above, the tax collection program is to be given first priority among all military government activities. I request that you give it your personal attention and keep me informed of any difficulties which you are unable to overcome that might prevent successful consummation of the program.

2 Incls:
1. Personnel Table
2. As indicated above.*

WALTON H. WALKER
Lieutenant General,
United States Army
Commanding

* Withdrawn

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

Permanently Assigned Full-Time Duty Personnel
to Handle Finance and Civil Property Matters

1. Separate sections to be established in each regional team as follows:

Kinki and Tokai-Hokuriku Teams:

Each team - 1 DAC, CAF-12,
1 Officer, 1 NCO Assistant,
Japanese assistants and transportation as needed.

Kyushu Team:

1 DAC, CAF-12, 1 NCO Assistant,
Japanese assistants and transportation as needed.

Chugoku and Shikoku Teams:

Each team - 1 Officer, 1 NCO
Assistant, Japanese assistants
and transportation as needed.

2. One officer to be added to the Economic Section of each prefectural team except as follows:

Osaka - 4 Officers
Nagasaki - 2 Officers
Hyogo - 2 Officers

3. It is anticipated that one Bureau of Internal Revenue tax expert from the United States will be available by or soon after 1 January 1949 for the sections of the regional teams, except in the Chugoku and Shikoku Regions, to which competent officers have already been assigned. The incumbent allotted to the Kyushu Region should cover both of the regional financial bureaus located at Kumamoto and Fukuoka.

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HEADQUARTERS I CORPS
APO 301 (Kyoto, Honshu)

MEMORANDUM:

21 December 1948

FOR : All Japanese Officials Concerned with the Collection of Taxes and the Enforcement of Tax Laws in I Corps Zone of Responsibility

1. The lack of energetic effort, in many instances amounting to neglect of duty, on the part of Japanese tax collecting personnel coupled with the failure of Japanese law enforcing agencies to promptly investigate and bring to successful legal conclusion criminal and civil tax cases are a matter of grave concern to the entire Japanese nation. This intolerable situation is interfering seriously with the successful accomplishment of the occupation objectives set forth by the Supreme Commander. The amount of taxes collected in the I Corps Zone of Respo sibility to date is far below what it should be. This failure of the Tax Collection Program is jeopardizing the economic recovery of Japan and the maintenance of a sound, stable government.

2. It is directed that all Japanese tax officials take immediate and vigorous action to accelerate the Tax Collection Program. All courts, law enforcing agencies, and others concerned, will perform promptly their functions in order to expedite investigation, prosecution, and trial of criminal violators of Japanese tax laws. Civil action in the attachment, seizure, and sale of property of persons, business concerns, and others who have not paid or do not intend to pay taxes which are legally due will be taken promptly and carried to a conclusion as soon as possible. Criminal and civil tax cases will be given high priority on court dockets.

3. In accomplishing the above directives in the case of United Nations' nationals, Japanese officials will take civil action under the civil jurisdiction conferred upon the Japanese government by SCAPIN 777, dated 26 February 1946, as limited by SCAPIN 4983-A, dated 29 December 1947. Japanese officials will promptly report to Military Government for proper disposition of United Nations' nationals who criminally violate any Japanese tax laws or who obstruct or interfere with Japanese government officials in the exercise of civil jurisdiction in tax matters.

4. It is directed that widespread publicity be given to indictments for violation of tax laws, and to successfully prosecuted cases.

DISTRIBUTION:
2 ea LG Region & Team
I Corps A/R
3 AG Rec, I Corps
3 - CG, 24th Div
3 - CG, 25th Div

/s/ J. L. Swing
/t/ J. L. SWING
Major General, USA
Commanding, I Corps

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

HEADQUARTERS I CORPS
APO 301 (Kyoto, Honshu)

AG 012 - BA

28 December 1948

SUBJECT: Tax Collections

TO : See Distribution

1. I am greatly concerned with the slowness and ineffectiveness of Japanese tax agencies and personnel in collecting taxes. Their lack of energetic action amounts in many instances to neglect of duty. This indifference coupled with a failure on the part of Japanese law enforcement agencies to promptly investigate, indict, and successfully prosecute violators of Japanese civil and criminal tax laws jeopardize the Occupation Force objectives of rehabilitating Japan economically and maintaining a stable government. A failure in these objectives will have to be made good by continuing or even increasing the heavy tax burdens of the American people in sustaining Japan.

2. Military government team commanders must maintain close surveillance over the activities of all Japanese officials concerned with tax collections to correct this intolerable situation. They will make the exceeding of 100% collection of taxes their number one objective. They must insist upon complete compliance with the memorandum regarding tax collections issued by me to the Japanese government on 21 December 1948. They will refer promptly to the appropriate Occupation Force court, cases of United Nations' nationals who criminally violate Japanese tax laws, or who interfere criminally with Japanese officials in the exercise of their civil jurisdiction in tax matters.

3. Military personnel and equipment of military government teams may be used to the extent necessary, provided no section is made inoperative, to successfully accomplish the tax collection program. If, after exhausting the means at his disposal, a commander requires assistance, he will request it promptly of his next higher commander. Regional commanders should make necessary temporary adjustments within their regions before applying to Corps headquarters.

4. Provost courts will expedite all legal actions within their jurisdiction related to cases of United Nations' nationals who violate criminally Japanese tax laws or who interfere criminally with Japanese government officials in the exercise of civil jurisdiction in tax matters.

DISTRIBUTION:
2 ea MG Region & Team
I Corps Z/R
3 AG Rec, I Corps
3 - CG, 24th Div
3 - CG, 25th Div

/s/ J. L. Swing
/t/ J. L. SWING
Major General, USA
Commanding, I Corps

DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

HEADQUARTERS I CORPS
APO 301 (Kyoto, Honshu)

AG 012 - BA 21 December 1948

SUBJECT: Surveillance of Japanese Tax Administration

TO : See Distribution

1. Reference is made to letter, Hq I Corps, subject as above, dtd 3 December 1948.

2. Considerable concern exists in this headquarters relative to the poor Japanese tax collection situation. Efforts must be made everywhere to improve and speed up the work of the Japanese officials in all phases of the tax collection program - from the filing of returns to the prosecuting of evaders. The Tax Collection Program has top priority of all military government activities. Accordingly, it is desired that by the first week in January, Finance and Civil Property Section be organized and functioning in each team. Temporarily, the section will be organized as indicated in inclosure 1.

3. Commanders will give personal attention to the tax program. They will recommend to their next higher headquarters methods and means by which they can be assisted to attain their goals.

BY COMMAND OF MAJOR GENERAL SIBERT:

1 Incl:
As indicated

/s/ C. C. Carter
/t/ C. C. CARTER
Colonel, AGD
Adjutant General

DISTRIBUTION:
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3 AG Rec, I Corps

4.

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Personnel to Comprise
Finance & Civil Property Section

Region Headquarters

1 DAC - CAF 12 (as supplied by higher headquarters)

1 Officer

1 NCO Assistant, plus Japanese interpreters as necessary

Military Government Team

1 Officer

1 NCO Assistant

1 Interpreter - driver

1 Vehicle

In addition to the teams as indicated above the following prefectural teams will organize additional teams as indicated:

Osaka - 4 Officers

Hyogo - 2 Officers

Nagasaki - 2 Officers

It is anticipated that one Bureau of Internal Revenue tax expert from the United States will be available by or soon after 1 January - 1949 for the sections of the regional teams, except in the Chugoku and Shikoku Regions, to which competent officers have already been assigned. The incumbent alloted to the Kyushu Region should cover both of the regional financial bureaus located at Kumamoto and Fukuoka.

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HEADQUARTERS EIGHTH ARMY
Military Government Section
Finance and Civil Property Division
APO 343

18 April 1949

Memorandum for Military Government
Tax Surveillance Teams:

The Director of the Taxation Bureau of the Ministry of Finance has notified all Directors of Regional Bureaus as follows:

1. The score system of evaluating tax evasion cases is immediately discontinued.

2. As a substitution, the attached summary called "Evaluation of the Prosecution Value of Tax Evasion Cases" is established.

In the revision, emphasis has been placed on the careful consideration of the motive of the evasion and the individual circumstances of the case to determine the degree of the offense and its general influence upon taxpayers in the event of prosecution.

Also, with reference to handling of important tax evasion cases, as described in par. 2 and par. 3 a close liaison has been established between the Regional Finance Bureau and the Local Tax Offices with the Public Procurator's Office for the purpose of screening the cases which are to be referred to the procurators for prosecution, and seeing that only the best cases are referred. Close cooperation will be established between the Inspection Division and the District Procurator's Office concerned, as well as between the Local Tax Office and the Regional Financial Bureau and the District Procurator's Office concerned before and after the recommendation for prosecution.

The Inspection Division of the Regional Bureau will instruct as well as cooperate with the Local Tax Office in regard to cases being considered for prosecution.

In regard to indirect tax evasion cases which are being considered for prosecution under par. 2 (4), they should be referred to the conference stated in par. 2 before the notification of fine is sent to taxpayer, in order to definitely determine whether or not the case should be referred to the Procurator's Office.

Cases which have been closed since September of last year, and which would be considered under the revised plan, should be reconsidered for its prosecution value, and reinvestigation if deemed advisable.

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## Evaluation of Prosecution Value of Tax Evasion Cases

1. In determining whether or not a tax evasion case should be referred to a procurator, the following items are to be considered, with the greatest emphasis, placed on items (1) and (2):

(1) Manner of Evasion: - The manner of evasion may indicate the taxpayer's intent to evade in the following ways:

(a) Intent may be shown by the planned preparation of two sets of books, fictitious purchase or sales slips, or other similar procedures.

(b) Public accountants or tax practitioners participating in the evasion.

(c) Corruption or bribery involved in the evasion.

(d) Social, political or financial influence used in the evasion.

(2) Scale of Evasion (Determining the amount fraudulently evaded)

The amount of fraudulently evaded tax shall be determined by deducting from the difference between the declared tax and the corrected tax, all non-fraudulent items such as technical adjustments, such as disallowed expenditures, non-fraudulent amortization and depreciation of assets, and similar items.

(3) Motive of Evasion and disposition of illegal profits. Determine whether or not the following conditions exist:

(a) Evasion planned in order to financially benefit personally the taxpayer, members of his family, business associates, or others.

(b) Use of illegal profits for secret dividends, secret renumerations, or payments for increased capital.

(c) Use of illegal profits for political contributions.

(4) Repeated offenses. Determine whether or not the taxpayer has a previous record of tax evasions or penalties.

(5) Offenses against economic control laws. Determine whether or not taxpayer has violated economic control laws.

(6) Attitude toward Investigation. Determine whether or not taxpayer has obstructed the investigation in any way by destroying evidence, intimidating tax officials, making false statements, etc.

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With respect to tax evasion cases coming under the provisions of the Anti National Tax Evasion Law, and based on consideration of the items stated in par. 1 above, they should automatically be referred for the joint consideration of the Director of the Regional Finance Bureau, Chief of the Inspection Division and the District Procurator's Office, and when concerned, the chiefs of the Direct Tax and Indirect Tax Divisions, and the Local Tax Chiefs, if the cases come under the following categories:

(1) Corporation Tax - Cases where the evaded tax is ¥1,000,000 or more (two or more tax periods shall be consolidated).

(2) Self-assessed Income Tax - Cases where the evaded tax is ¥500,000 or more (two or more tax periods shall be consolidated).

(3) Withholding Tax - Cases where the tax of ¥500,000 or more was failed to be collected or paid.

(4) Other Direct and Indirect Taxes - Cases where the evaded tax is ¥500,000 or more.

3. In regard to all cases other than those coming under par. 2 above, the decision as to whether or not they should be referred to the procurator's office shall be decided on the merits of each particular case in accordance with the principles stated in par. 1 above, with special consideration being given to the following:

(1) When tax evader involved is a bad character.

(2) When the purpose is to set an example and warning to the people, and there are insufficient cases coming under par. 2.

(3) When, for other reasons, it is deemed advisable to send the case to the procurator's office.

(After decision is reached to refer the above cases to the procurator's office, the procedure described in par. 2 above of referring the case for the consideration of the joint conference should be followed).

4. The Inspection Division will cooperate closely with the District Procurator's Office concerned, and the Local Tax Office will cooperate closely with the Regional Financial Bureau and the District Procurator's Office concerned both before and after the recommendation for prosecution.

5. The Inspection Division instruct, as well as cooperate, with the Local Tax offices in recommending cases for prosecution.

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## CHAPTER VIII

## QUESTIONS WITH ANSWERS ON JAPANESE TAX LAWS

The following questions are selected from those most commonly asked by newly assigned Military Government Tax surveillance Officers.

1. QUESTION: What constitutes an act of tax evasion under the Japanese law?

   ANSWER: The filing of an income tax return in which the net income reported is deliberately understated in some way with the intention of evading the tax legally due. The same situation prevails in the case of other taxes.

2. QUESTION: Is a taxpayer's plea of ignorance to existing tax laws to be given legal substance?

   ANSWER: Ignorance of the law is no more a defense in Japan than it is in the United States. However, proven ignorance of the law is no doubt given consideration by the judge or judges in passing sentences.

3. QUESTION: Can a simple guide or rule of thumb be stated to differentiate between civil and criminal offenses?

   ANSWER: Perhaps the simplest rule is that a criminal offense is subject to punishment by a court of law which imposes a fine or imprisonment or both, while civil offenses are punishable by penalties which may be asserted or imposed by tax officials.

4. QUESTION: Why can't corporations, owed money by the government, be given credit for taxes upon presentation of receipts?

   ANSWER: Certain legal barriers make this short-cut method of payment impossible. Also the Japanese departmental accounting system would make it impractical. It is believed this problem has pretty well disappeared now due to more prompt payment of government obligations.

5. QUESTION: Where is the dividing line between delinquency evasion or fraud, and misdemeanor? Is the determination of these factors at the discretion of the tax officials'

   ANSWER: Delinquency is the failure to file a required return at all or filing it after the due date, and is not a criminal offense. The 10 sen per 100 yen per diem

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penalty (or interest) and the 25% ad valorem penalty may be imposed at the discretion of the tax office chief. The penalty or penalties which may be imposed for fraud or other offenses punishable by fine and/or imprisonment must be imposed by a court of law. The nature of the offense determines the extent of the punishment.

6. QUESTION: Complaint has been received that tax laws are difficult to interpret, and that a divergence of opinion exists, even between local tax offices in the same prefecture, as to the intent of the law. Suggestion was received that tax laws be simplified or that a centralized agency be established wherein the Laws could be interpreted consistently and those interpretations disseminated to local tax offices by means of regulations.

ANSWER: The above suggestion is one of the main objectives sought in the overall plan of reorganization now under consideration by the Japanese Taxation Bureau.

7. QUESTION: How can the tax officials make an accurate "Corrected Decision" assessment without an investigation?

ANSWER: They cannot make an accurate and correct assessment without actual figures regarding the taxpayers' income and expenses.

8. QUESTION: Due to inexperienced personnel working in tax offices, is it not advisable that tax laws be interpreted in simpler terms so that they may be more easily understood?

ANSWER: This problem is being met in several ways. It is proposed to hold training courses on the job and by correspondence to improve employees working knowledge of tax law. As a part of the long range reorganization plan it is proposed to have regulations, rulings, etc. regarding the interpretation of the various tax laws issued by the Taxation Bureau in Tokyo to all local tax offices, thus assuring consistency in interpretation.

9. QUESTION: What can be done to make taxation officials levy just and correct assessments and not make assessments upon rumor and anonymous letters that are unfounded.

ANSWER: This is one of the problems included in the long range plan for improving the Japanese tax system. First, the Japanese public must be educated as to the need for taxes and their duty as citizens to share this burden. Second, taxpayers must be educated to keep

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some sort of records to show what their correct income is. Third, tax officials must be trained to interpret records so they can verify returns filed or determine the correct income when returns are not filed. Fourth, tax officials must be instructed as a matter of general policy to avoid arbitrary assessments wherever possible and to make assessments based only upon proper investigations. It is quite apparent, however, that it will require an extended period of time to bring about all or any of these reforms.

10. QUESTION: Why do Japanese officials say that when a man fails to pay his taxes when they become due, that it is just a debt he owes and not tax evasion?

ANSWER: The statement of the Japanese officials is correct. If a taxpayer files a return showing a tax liability which he does not pay for some reason, known or unknown, or fails to pay a deficiency in tax assessed by a tax office and no evidence of intent to evade such tax is evident at that point, his failure to pay is not an act of evasion in either case. Evasion within the meaning of the tax law means understating the tax liability with intent to evade. Payment or non-payment of the liability can have no connection with the offense of tax evasion.

11. QUESTION: Why is there not a provision in the present existing tax laws whereby a person may be prosecuted and given a sentence for penal servitude when he fails to pay his taxes when they become due?

ANSWER: For the same reason that there is no such provision in the tax laws of the United States. Failure to pay a debt is not a criminal offense.

12. QUESTION: When tax delinquents have no property to attach, what legal action can be taken against them?

ANSWER: Practically none. There is a procedure provided for collection from the taxpayers' employer, if any, as salary or wages are earned, but this procedure is so complicated and cumbersome that it is never resorted to.

13. QUESTION: What happens to the money owed the tax office when a man is picked up for evasion and prosecuted? Is the tax written off the books or does he still owe the money after he is released?

ANSWER: His tax liability is not affected by his prosecution. He still owes the tax and all efforts should be made to collect it.

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14. QUESTION: Are there any legal measures that Japanese tax officials can take against Chinese for delinquent taxes, without channelizing the case through Military Government?

ANSWER: Japanese tax officials may take all the usual steps to collect taxes from Chinese nationals, except matters involving criminal offenses or penalties.

15. QUESTION: Why was the goal of Toyama Prefecture raised approximately 18% while those of the rest of the region, with the exception of Ishikawa, were lowered?

ANSWER: This question may be answered, in part at least, by a quotation from a statement recently issued by the Taxation Bureau, Ministry of Finance, relative to the matter of "goals" "..... Accordingly respective Regional Bureaus and, through those, respective tax offices have been given a goal of tax collections for the 1948-49 fiscal year as broken down quarterly, whereby they are indicated what they must work for. This goal should not be interpreted as the allocated quota of tax collection. Rather it indicates what the Ministry of Finance believes as collectible in case legal tax obligations are properly met by taxpayers and provided that tax officials work at 100% efficiency in order to faithfully carry out the provisions of tax laws. The goal is also designed to help realize across-the-nation equity of the tax burdens by placing respective Bureaus and field offices under a single and uniform control of Finance Ministry. The establishment of the goal is designed to encourage, instead of discourage, tax collectors to collect as they are ordered to collect by laws and taxpayers to pay as they ought to pay under laws. It is erroneous to conjecture of any direct link as existing between the goal and the tax liability of individual taxpayers.....". From this quotation it is apparent the so-called goals are based upon estimates which regional offices make based upon conditions as they are believed to exist at the time goals are established. If it is found subsequently that conditions have changed or original goals are out of line, new goals are set.

16. QUESTION: Under what Japanese law is it legal for third parties or associations to conduct tax adjustment discussions, with tax officials, for an individual?

ANSWER: The National Tax Practitioners Law provides that certain licensed individuals, not associations, may represent taxpayers, by proxy, before tax officials,

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in negotiations, discussions or in the preparation of documents. Such practitioners must prove their qualifications by examination before they are granted a license. Tax officials should not negotiate with any person or organization other than the principal or an authorized practitioner.

17. QUESTION: Is it advisable to install in school courses the reasons for taxes, and the correct use of the taxpayers' money?

ANSWER: At the present time schools are furnished leaflets, kamishibai, exhibits, etc. having to do with taxation, budget, etc. Intensification to any extent is probably undesirable due to possible interference with the general educational program and smacking of propaganda.

18. QUESTION: In reference to Japanese Income Tax Law, can a taxation official use physical force upon a delinquent taxpayer if the taxpayer tries to escape with income tax records and papers, while the official is conducting an investigation?

ANSWER: No, physical force may not be used.

19. QUESTION: How are reassessments made during the current period before the final return is filed?

ANSWER: Provisional (or estimated) returns are looked over by tax officials as they are filed and compared with certain statistical records built up by test examinations made of the actual income of taxpayers in the same business. If such provisional returns appear to be too low, reassessments are made to bring them into line with what the tax official believes to be a more nearly correct estimate of income. The method employed is admittedly quite arbitrary.

20. QUESTION: What evidence does a tax official need to determine that a return is fraudulent or that a person who failed to file a return and is reassessed a large amount of tax is guilty of evasion?

ANSWER: What is good evidence and what is not good evidence to prove fraud is a study in itself, and is difficult to answer briefly. The mere failure to file a return is not a criminal offense in itself and is subject only to the delinquency penalties provided in the law. However, if there has been an overt act by the taxpayer to show that it was his intent to fraudulently evade his taxes by such acts as keeping two sets of books, or overstating his purchases of merchandise or expenses, or understating his receipts, then he

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should be charged with fraudulent evasion of taxes. A question has been raised as to whether or not a re-assessment in itself does not stop the Government from alleging fraudulent evasion. This question is now under study.

21. QUESTION: Is a person who fails to make a final return, or to make a self-assessment, or who understates his self-assessment to be treated other than as a delinquent if a tax official cannot find concrete evidence of swindle?

ANSWER: One who files a timely required return even though it may be fraudelent, is not a delinquent. The failure to file a return or filing it later is not a criminal offense.

22. QUESTION: Are there any limits to the amount of a reassessment?

ANSWER: No, but a reassessment is supposed to be based on the best information available.

23. QUESTION: Is it legal to have standardized or uniform record books for self-assessed taxpayers distributed by the Tax Office?

ANSWER: The Japanese income tax law is silent on this subject so it must be assumed that the preparation and dissemination of such record books is not authorized.

24. QUESTION: What is the legality of assessment as income tax on prostitutes and are there any specific methods of enforcement for transients?

ANSWER: This class of taxpayers is no different from other classes and are subject to taxes on their earnings. There are no special measures known to be available for determining the earnings or transients.

25. QUESTION: Request clarification of Article 20 of Japanese Income Tax Law, if Article 35 of the Japanese constitution is invoked against it.

ANSWER: It is assumed Article 20 of the National Tax Collection Law is the article in question, as it covers the matter of search and seizure. Art 35, Constitution: The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant..... Each search or seizure shall be made upon separate warrant issued by a competent ju-

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dicial officer. Constitutionality of Art 20, National tax Collection Law has not been decided by Supreme Court.

26. QUESTION: Does Article 10-2, National Tax Collection Law mean that a delinquent who is found to be an evader can be prosecuted and in addition have his property attached for payment of the tax evaded? If so, what is the procedure?

ANSWER: If a taxpayer filed a fraudulent return he can be prosecuted and in addition be forced to pay the tax evaded by all the usual means, including attachment of his property.

27. QUESTION: What is meant by extenuating circumstances in Article 9-(6)-3 of the National Tax Collection Law?

ANSWER: The language of the translation is very vague. Japanese tax officials state the wording in Japanese is equally vague and that this section is rarely involved. Apparently there has been no judicial clarification of the language in this section.

28. QUESTION: There exists at this time a great deal of confusion in the collection of tax levied against coal miners. Basically the system of withholding tax is concrete, but present conditions necessitate a bank loan to meet payrolls and banks will not extend courtesies on taxes. A large backlog of unpaid withholding taxes has been incurred. It is contemplated that the financial bureau will in some manner clear these deficit taxes. Any information on the government's policy will be desirable.

ANSWER: This problem is under consideration by the Finance Ministry.

29. QUESTION: What tax and in what proportion is levied against associations?

ANSWER: None. Unless the organization is a corporation or "legal person" within the meaning of the Japanese code it is not subject to tax.

30. QUESTION: Can Agriculture Cooperatives or other organizations refuse to furnish data on members' incomes?

ANSWER: Article 64 of the Income Tax Law provides that taxation officials may, when necessary, for the investigation of the income tax, examine organizations of persons engaged in business for the matters relating to incomes of members thereof? To demand such information apparently all that is required is for the

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tax official to identify himself by means of proper credentials and request the necessary information or be permitted to examine the records.

31. QUESTION: A number of taxes, formerly collected nationally have been passed to Prefectural agencies. Complaint was received that the revenues immediately decreased thereby burdening the National Government to subsidize the deficiencies. An example quoted was "Admission Taxes", the statement being made that revenues have decreased 50% on this tax. The statement was also made that the average Japanese, not being tax minded, is generally greatly confused, not so much with the various kinds of taxes, but rather with the numerous places he has to visit to settle his tax problems. Suggestion was received that tax collections be centralized and distributions be made from the collections as to National, Prefectural, Village, etc. taxes. The suggestion does appear to tend to a return to complete control by the National Government.

ANSWER: Only four major taxes have been abandoned by the National Government and left entirely for the use of local governments. With the exception of the admissions tax, the portions of these Collections going to the National Government were actually assessed and collected by the local governments. Consequently there should be little decrease in efficiency due to the change. The admissions tax was transferred to the local governments as of August 1, 1948. This divides the collections for 1948-1949, four months to the National Government and eight months to the local governments. On the basis of the most recent reports 97.7% of amount budgeted from this source has been collected. For the local government incomplete data are available. According to the Local Finance Committee, local budgets for 1948-1949 include at least 6,373 million yen from admission tax. During the first month under the law incomplete reports indicate that 470 million yen was assessed and 356 million collected. Continuation of monthly assessments at this level and full collection thereof would produce 3,760 million or 59% of the total budgeted from this source. A completely centralized system of administering taxes does not exist in any nation today. The most important argument against such a system is the fact that local governments tend to regard distributions from central governments as a gift and are, therefore, less careful in administering their expenditures. On the other hand, local governments are conscious of the difficulties involved in making direct collections from citizens and this factor tends

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toward expenditure control. One of the principles consistently advocated in the United States is that each level of government should be supported by its own tax collections insofar as possible.