2. From: Legal Sec To: GS Date: R.B. Appleton
10 Feb 50
2635-473

No legal objections. Reference is made to Checksheet from LS to GS, dated 9 November 1949, same subject.

Incl w/d

- A. C. C. - - - - - - - - - -

Rec'd GS 2/13

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOR
(TEL. 57-6010)

March 30, 1950

1. FOR Number: 193

2. Name of Bill: Bill concerning the Responsibility of the Budget Executing Officer, etc.

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: March 24, 1950

5. SCAP Section concerned:

Mr. Harrison, Public Finance Branch, Finance Division, E.S.S.

6. Remarks: (reference:)

See attached paper.

.....

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.....

.....

7. G.S. Reviewers:

GS: ESS
WS/hd

Received by GS

Date 3/30/50

(9)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JA/JW/CHM/gb

Subject: Draft Legislation

Tbe No. From: Govt Sec To: LS/LJ Capt. Morris 26-6076 Date: 30 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Bill Concerning Responsibility of Budget Executing Officer, etc.

Cy to ESS C. W.

PAD DIV

SUBJECT: Bill Concerning Responsibility of
Budget Executing Officer, Etc.

1.

2.

From: LS/LAJ To: Govt Sec

R. T. Brunckhorst
2835-420
Date: 10 April 1950

1. Subject bill provides that certain budget executing officers handling National funds may be subjected to disciplinary and other action on orders of the Board of Audit when it is found by said Board of Audit that the officer has caused "a loss to the State by intent or grave negligence". Two forms of action may be taken against the disbursing officer: (1) determination that said officer shall reimburse the State for the loss and/or (2) a personal type of action such as removal, loss of rank, etc. In case the latter type of punishment is given, said budget executing officer may apply for public hearing before the National Personnel Commission as provided for in Law No. 120 of 1947. The decision of this Commission affects only the second type of action and its ruling has no force or effect on the reimbursement type of determination. As the present draft stands, the only remedy afforded the officer who has been ordered to reimburse the State is through the Diet. (See Article 8). This Article provides that the Diet may release or decrease the amount of reimbursement.

Recd GS 4/10

2. LS objects to Article 4 of subject bill. It suggests that the Article be rewritten to provide that the Board of Audit present to the officer to be disciplined, a written statement of the charges he is to be tried on. That said subject bill provide that the officer charged may be entitled to a public hearing before the Board of Audit with the right of representation or by counsel if so desired. The bill should

2. Cont'd) provide that on decision, the Board of Audit should make a written findings of fact and give reasons for the judgment. This should be available to the accused. Thereafter, within a time limit set by law, the accused officer should be given the right to file suit against the adjudication of the Commission before a review court. The findings of fact by the Board of Audit should be conclusive on the court only when the court decides that the facts are supported by substantial evidence. It is suggested that the court procedure used in Articles 52 and 53 of the Land Coordination Commission Establishment Law be followed in this respect.

3. LS has no other objections to subject bill.

1 Incl:
w/d

A. C. C.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/gb

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. 1. From: Govt Sec To: ESS Date: 30 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Bill Concerning Responsibility
of Budget Executing Officer, etc.

Cy to LS/LJ C. W.

Mr. Harrison, 26-6070

WFM/EMR/JWH/ftk

010(30 Mar 50)ESS/PF

7 APR 1950

From: ESS To: Govt Sec

2. ESS has no objection to the introduction in the Diet of the Bill Concerning Responsibility of Budget Executing Officer, etc.

1 Incl
n/c

W. F. M.

Reid GS 4/7

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CFG/gb

Subject: Draft Legislation

Capt. Guida
26-6076

No. From: Govt Sec To: LS/LAJ Date: 12 April 1950

1. Immediate introduction of the attached revised draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Bill concerning Responsibility of Budget Executing Officer, etc.

Cy to ESS

C. W.

P & P DIV

Bill Concerning Responsibility of Budget
Executing Officer, etc.

From: LS/LAJ To: GS

R.T. BRUNCKHORST-2635-420
Date: 17 April 1950

2. Revised draft of subject Bill corrects the objectional features pointed out in LS checksheet to GS, dated 10 April 1950.

Incl: w/d

- A.C.C. - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CFG/gb

Subject: Draft Legislation

Capt. Guida
26-6076

From: Govt Sec To: ESS Date: 12 April 1950

1. Immediate introduction of the attached/~~draft~~ revised bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Bill concerning Responsibility
of Budget Executing Officer, etc.

Cy to LS/L&J

C. W.

File: 010(12 Apr 50)ESS/PF

WFM/EMR/JWH/eb
Mr. Harrison, 26-6070

From: ESS To: Govt Sec 15 APR 1950

2 There is no objection to the immediate introduction in the Diet of the revised draft bill, Bill Concerning Responsibility of Budget Executing Officer, etc., as proposed by the Finance Ministry.

1 Incl:
n/c

for: M. P. Noyes, Lt. Col. AGD
W.F.M.

Riggs 4/15

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOA
(TEL. 87-6010)

March 15 , 1950

1. FOA Number: 178

2. Name of Bill: **Bill for Partial Amendments to the Ministry of Finance Establishment Law**

3. Competent Ministry: **Ministry of Finance**

4. Date of Cabinet Approval: **March 14, 1950**

5. SCAP Section concerned:

6. Remarks: (reference:)
See attached paper.
.....
.....
.....
.....
.....

7. G.S. Reviewers:

LS:
ESS
LS/LJ

Received by GS

Date 3/15/50

(10)

No. 47

Date: Mar 15. 1950

Title of ~~Cabinet order~~ Law

Bill for Partial Amendments to the Ministry of Finance Establishment Law

This draft ~~Cabinet order~~ Law has been approved by the Administrative Management Agency.

Onogi Katsuhiko

Deputy Director ONOGI, Katsuhiko.

Administrative Management Agency.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec To: ESS Date: 15 March 1950 | 26-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Ministry of Finance
Establishment Law

Cy to LS/L&J C. W.

P & P DIV

Min of Finance Estab Law.
3/15/50

071(15 Mar 50)ESS/BFE

Mr. [illegible] 33-7021
WFM/FRJ[illegible]/GPW/yy

From: ESS To: Govt Sec Date: 17 APR 1950

2

ESS recommends the following changes and additions to the proposed Bill for Partial Amendments to the Ministry of Finance Establishment Law:

a. Article 26 (3): The clause "....enumerated in Art. 4, items (1) to (9) inclusive and item (12)" should read "....enumerated in Art. 4, items (1) to (12) inclusive";

b. Article 26 (4), para. 3: The clause "....provided for by Cabinet Order unless otherwise" should be stricken;

4/17/50

c. Article 4 (35): Control of foreign exchange within the scope of the authority attributed to the Ministry in accordance with the provisions of the Foreign Exchange and Foreign Trade Control Law (Law No. 228 of 1949) and Orders thereunder;

d. Article 10 (11): Administration of the affairs concerning foreign exchange rate, designation of the currency and other manners of settlement for foreign transactions;

e. Article 10 (12): Survey and control of overseas funds (excluding those in charge of the Foreign Exchange Control Board) and other overseas properties;

Mr. Waller, 23-7021
WFM/FRJG/GPW/yy

071(15 Mar 50)ESS/BFE — Draft Legislation — 17 APR 1950

ESS — Govt Sec

2 (Contd) f. Article 10 (14): In addition to the affairs listed in the preceding three items, adjustment of international balance of payment, control of foreign exchange (excluding those in charge of other government agencies in accordance with the provisions of the Foreign Exchange and Foreign Trade Control Law and Orders thereunder) and adjustment of the international financial movement.

1 Incl
n/c

- W.F.M. - - - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec To: LS/L&J 26-6076 Date: 15 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
Ministry of Finance
Establishment Law

Cy to ESS

C. W.

P & P DIV

Partial Amendments to Ministry of Finance Establishment Law

From: LS/IAJ To: GS R.T. BRUNCKHORST-2635-420
Date: 5 April 1950

2.

1. Legal Section makes the following objections:

a. Article 26(4)-3 states that the organization and responsibilities of the Certified Public Accountant Examination Committee shall be provided for by Cabinet Order. There are no standards set forth in the law. This violates Article 41 of the Constitution which, in stating that the Diet shall be the sole law making power of the state, prohibits by necessary implication excessive delegation of any of its powers to the Cabinet.

b. Article 33-(4)-3 states that the organization and details of responsibilities of the Conference Group of the Tax Administration Agency shall be provided for by Cabinet Order. Again there are no standards set forth. Internal Revenue, ESS states that the reason for not setting forth the basic requirements for this group at the present time is that the plans for defining the structure and functions of said group are in such a nebulous state that it is impossible to legislate on the subject now. However, such is the normal excuse for legislation by Cabinet Order. In the opinion of LS, inadequately prepared legislation had better be postponed instead of choosing the expedient of authorizing the executive branch to legislate on essential matters.

Recd 6 S 4/7

c. LS objects to Article 38-(2) for the same reasons as stated in the preceding paragraph.

Partial Amendments to Ministry of Finance Establishment Law

LS/L&J GS 5 April 1950

2. (Contd) 2. Article 30, Item (7)-(2) and Articles 33-(2) and 33-(3) of subject bill provide for not more than 60 personnel investigators of the Tax Administration Agency to investigate offenses committed by or connected with personnel of the Agency. Previous drafts of these provisions were discussed in detail by LS with G-2, PSD, GS, ESS/Internal Revenue Division and representatives of the Japanese Attorney General's Office and Finance Ministry. The provisions in subject bill as now drafted avoid uncertainty and misunderstanding as to the powers of the personnel investigators since it sets forth their powers explicitly and in detail by reference to relevant provisions of the Code of Criminal Procedure. In general the investigation will follow the Code except that the personnel investigators will have to secure cooperation of police or procurators whenever so-called "compulsory disposition" is required, since they have no power to make arrests, seizure, searches, inspections, inquests or utilize expert witnesses. Of course, the personnel investigators, like any private person, may arrest flagrant offenders, i.e. offenders caught in the act or just after its commission. From the standpoint of legality and clarity of draftsmanship, LS has no objection to aforesaid provisions of subject bill.

3. The policy behind these provisions is a matter of primary concern to ESS/Internal Revenue Division and was approved by the Shoup Mission Report in Volume IV at page D46 in the following language:

> "The recent decision to create a special trusted group of personnel inspectors responsible to the Tax Administration Agency represents a necessary and desirable step. This group must be adequate in number and ability to check on the honesty of tax officials and to ferret out corruption. Tax-payers and tax officials who indulge in bribery activities must be vigorously prosecuted."

In spite of the foregoing quotation from the Shoup Mission Report, the desirability of such a system of personnel investigators in a country only recently freed from police state oppression may be questioned. Legal Section cannot conceal a certain apprehension from the point of view of public service ethics that this device might become a dangerous precedent for the establishment of spying and informer systems within the governmental bureaucracy.

Incl: w/d

- A.C.C. - - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida

Note No. From: Govt Sec To: ESS 26-6076

Date: 13 April 1950 revised

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Ministry of Finance.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
Ministry of Finance
Establishment Law

Cy to LS/LWJ

C. W.

P & P MV

071(13 Apr 50)ESS/BFE

Mr. Waller, 33-7021
WFM/FRJG/GPE/yy
Date 21 APR 1950

From: ESS To: Govt Sec

2 No objection is offered to the revised draft of Partial Amendments to Ministry of Finance Establishment Law as inclosed.

1 Incl
n/c

- W.F.M. - - - - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

e No. : From: Govt Sec To: LG/LaJ Date: 13 April 1950
revised

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
Ministry of Finance
Establishment Law

Cy to ESS C. W.

P & P DIV

No obj. 4/17

Revised

Partial Amendments to Ministry of
Finance Establishment Law

4/3

From: LS/LAJ To: GS R.T. BRUNCKHORST-2635-420
Date: 17 April 1950

2. Revised subject bill complies with LS objection 1g in checksheet to GS under date 5 April 1950. Revised bill does not comply with objections set forth in 1h and 2 of said checksheet, which are being sustained.

Incl: w/d

- A.C.C. - - - - - - - - - - - -

Recd GS
4/18/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CHH/gb

Subject: Draft Legislation

Capt. Morris

Note No. 26-6076 From: Govt Sec To: ESS Date: 27 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the House of Representatives.

2. Your prompt comment is requested.

1 Incl
Amendment to Bill for
Amendments to Ministry
of Finance Establish-
ment Law

Cy to LS/IAJ C. W.

P & P DIV

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CHM/gb

Subject: Draft Legislation

Capt. Morris

Note No. 26-6076 From: Govt Sec To: GS Date: 27 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the House of Representatives.

2. Your prompt comment is requested.

1 Incl
Amendment to Bill for
Amendments to Ministry
of Finance Establish-
ment Law

Cy to LS/LAJ C. W.

AG P & P DIV

SPECIAL DELIVERY

AH Perrin 26-8476
WFM/HS/JEM/AHP/my

2. From: ESS To: Govt Sec Date: 2 MAY 1950

The attached draft of proposed amendment to partial amendments to Ministry of Finance Establishment law is disapproved in its entirety inasmuch as it nullifies all proposed laws in connection with the grant of limited judicial police powers to Tax Administration Agency Personnel Investigators.

1 Incl
n/c

- - - - - - - - - - - - - - - - - - W. F. M. - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JM/CHM/gb

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec | To: LS/LAJ | Date: 27 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the House of Representatives.

2. Your prompt comment is requested.

1 Incl
Amendment to Amendments
to Ministry of Finance
Establishment Law

Cy to ESS

C. W.

P & P DIV

4/7

SUBJECT: Amendment to Amendments to Ministry of Finance Establishment Law

~~AR~~ Ein

From: LS To: GS

R. Brunckhorst Meiji 428
Date: 29 April 1950

2

1. LS has no objections to subject bill.

1 Incl.
w/d

- A.C.C. - - - - - - - - - - - -

Rein GS 5/1

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 57-6010)

April 28, 1950

1. FOM Number: 210

2. Name of Bill: Bill concerning the Temporary Measures for Separation Allowances for National Service Personnel and Others (Public)

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: April 27, 1950

5. SCAP Section concerned:
Mr. DeAngeles, Civil Service Division, G.S.
Mr. Harbster, Public Finance Branch, Finance Division, E.S.S.

6. Remarks: (Reference:)

..Reference laws are attached herewith.....

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7. G.S. Reviewers:

GS:
ESS
LS/LS
GS/CS

Received by GS

Date 4/28/50

(11)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. From: Govt Sec To: ESS Date: 29 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Temporary Measures for
Separation Allowances for
Natl. Public Service
Personnel and Others

Cy to LS/L&J

C. W.

File: 010(29 Apr '50)ESS/PF

WFM/EMR/LAH/tpy
Mr. Herbster, 26-6070

2 From: ESS To: Govt Sec

2 MAY 1950

There is no objection to the introduction of the Bill for Temporary measures for National Public Service Personnel and others except that in Article 2, line 5, the word "separate" should be corrected to read "special".

1 Incl:
n/c

W.F.M.

Government Section
Buck Slip

4/28 1950

FROM: DAD

TO: INITIAL DATE

_____CHIEF..... .....
_____EX OFF..... .....
_____DEPUTY CHIEF..... .....
_____Col Wheeler..... .....
_____Chief Adm Div..... .....
_____Stat & Review..... .....
__X__Civil Serv Div..... .....
_____Par & Pol Div..... .....
_____Public Adm Div..... .....
_____Public Aff Div..... .....
_____Personnel Clerk.... .....
_____Chief Clerk..... .....
_____File..... .....

FOR:

_____INFORMATION
_____NECESSARY ACTION
_____ACTION (Prepare Reply)
_____APPROVAL
_____INITIAL
__X__COMMENT OR CONCUR
_____RETAIN
_____RETURN
_____FILE O&M.
_____BURN

Bill concerning the Temps. Measures for Separation allowances for Nat. Public Service Per. & others

4/30/50

The Civil Service Div. offers no objection to this proposed law.

W Bruckner

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Note No. From: Govt Sec To: LS/L&J Capt. Norris 26-6076 Date: 29 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Temporary Measures for
Separation Allowances for
Natl. Public Service
Personnel and Others
Cy to ESS

C. W.

P & P DIV

4/29

Subject: Temporary Measures for Separation Allowances
for National Public Service Personnel & Others.

(Fein Mem)

2.

From: LS To: GS C.J.Smith-2635-405
Date: 9 May 1950

1. Inasmuch as subject bill has been passed into law, this Section refrains from making any comment thereon.

1 Incl. w/d

- A.C.C.- - - - - - - - - -

Rec'd GS 5/12

Bill

to be submitted for GS approval
Legislative Affairs Section, FOA
(TEL. 87-6010)

March 16, 1950

1. FOA Number: 180

2. Name of Bill: Bill for Partial Amendments to the Special Taxation Measures Law, etc.

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: March 14, 1950

5. SCAP Section concerned:
Mr. Alber, Internal Revenue Division, ESS.

6. Remarks: (Reference:)
See attached paper.
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7. G.S. Reviewers:

CS:
ESS
NRS
LS/LJ

Received by GS

Date 3/16/50

(12)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CK/JH/JW/CHH/vs

Subject: Draft Legislation

Note No. | From: Govt Sec | To: LS/LAJ | Capt. Norris 26-6076 | Date: 17 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the Special Taxation Measures Law, etc.

Cy to ESS, NRS

C. W.

P & P DIV

Partial Amendments to the Special Taxation Measures Law, etc.

From: LS/L&J To: GS

R.T. BRUNCKHORST-2635-42(
Date: 28 March 1950

2.

1. The Partial Amendments to the Special Taxation Measures Law grants certain tax exemptions to foreigners who invest capital in Japan. The following are some of the more important exemptions:

a. Article 3 provides for a reduction from 20% to 10% on income from interest or dividend paid to a foreign national on his ownership of national bonds, local bonds, corporate debentures, stock and equities of domestic corporations.

b. Article 4 provides that a foreigner who receives payment in the enforcement area of Japan from outside sources will be given a discount in tax rate. Para. 2 of the same article states that when a foreigner receives payment from within the enforcement area and also from outside of the enforcement area, only that sum received from outside sources will be subject to discount. Para. 3 of said Article provides that where receipt of money from outside of the enforcement area is less than that amount ordinarily necessary for cost of living of said person that the amount to be taxed will be the standard of ordinary living as set by Order.

Recd GS 3/29/50

c. Article 5 provides that a foreign National engaged in a business which invests foreign capital and scientific technique in Japan, will receive a 50% reduction in the amount to be taxed up to 3,500,000 yen. This provision includes (1) foreign persons working for a domestic firm which has received foreign capital (officials and managers or scientific personnel); (2) a person in high position responsible for the management, administration, accounting or scientific technique working for a foreign corporation with foreign investment in Japan; and (3) any person designated by the Minister of Finance, who accepted a call from a corporation as

2. (Contd) outlined in (2) in a scientific capacity. Under this Article, the Minister of Finance, after consultation with the Foreign Investment Committee shall decide what foreign companies are to be allowed to bring in foreign capital, subject to the tax exemption. The amount of capital shall be decided by the Minister of Finance.

d. Article 5-(2) provides that a foreign national, during the period 1950-1955, engaged in such professions as facilitate the operation of corporations with foreign investment, who can show that 30% of his total income comes from such corporation, shall be entitled to a 50% deduction from his income up to 3,500,000 yen. The Minister of Finance will decide who falls within this category.

The second part of Article 5(2) provides that a foreign national who is high in position of responsibility for the management, administration or scientific technique of a foreign corporation will receive a 50% reduction to taxable income or a limit of 3,500,000 yen if the foreign corporation falls in the category of the profession under the provisions of preceding paragraph, i.e., engaged in such professions as facilitate the operation of corporations with foreign capital, or where the corporation he is working for received more than 30% or more of the total profits for the preceding year which was acquired from a corporation with foreign investment engaged in scientific development or the introduction of foreign capital.

e. Article 5(3) provides that a foreign teacher will receive special consideration on earned or retired income in that only 50% thereof will be taxable up to 3,500,000.

f. Article 5(4) provides that for the year 1950 foreigners paid in non-yen currency, only 50% of a certain amount as provided for in Order will be taxable. This clause is to ease the transition and will be effective only for the year 1950.

2. LS objects to the following provisions:

a. Article 4-3 contains the phrase "in case the expenses which are ordinarily necessary for the life of a person". The determination of this will be left to the Ministry of Finance. This authorization of an administrative agency is considered excessive, inasmuch as no standards are set forth in the law. According to information, the Ministry of Finance plans to have one standard for Chinese, another for Indians, another for Koreans and another for Americans, etc. These will be on different living cost levels. Legal Section

2. (Contd) believes that clear standards should be contained in the law itself.

b. Article 5-3 provides that the type of business which may introduce foreign capital and scientific technique in 5-1 will be left to determination by the Minister of Finance after consultation with the Foreign Investment Committee. Here again, no standard is provided except that the business must be for the "rehabilitation and sound development of Japanese economy." This extremely vague provision grants too wide a latitude to the Minister and may open the door to favoritism. It may be noted that the Minister of Finance may add to or eliminate from the list types of business at any time. This could lead to serious consequences. A foreign corporation might be induced to bring foreign capital to Japan because of tax exemption for its employees and subsequently, after considerable investment, that particular industry might be withdrawn by the Minister of Finance from the list of favored concerns. According to Internal Revenue/ESS the Japanese have agreed with them that a foreign corporation, once having been allowed to enter under the rules, will be continued as tax-privileged for the five year period. Legal Section feels that this important point should be clearly stated in the law.

c. Throughout Article 5, the question as to who is a person in a high position responsible for management, administration, accounting, audit or scientific technique is left to the Minister of Finance. The previous remarks about absence of standards apply to this provision.

d. Article 5-5 provides that the amount of capital to be brought to Japan in order to qualify for tax exemption is to be left to the Minister of Finance after consultation with the Foreign Investment Board. The way this is written, the Minister of Finance could change the amount at any time. This might work hardship on those foreigners who had already complied with a certain amount and were required to add to the sum. It is also conceivable that the amount set might be so low as to do irreparable injury to Japanese businesses.

e. Under 5-1(3) it is left to order of Minister of Finance what type of person is to be accepted for employment with an approved corporation to "lead and improve scientific technique".

f. Article 5(2) leaves it up to the Minister of Finance, and/or after consultation with the Foreign Investment Committee what type of foreign national professional is to be "engaged in such professions as facilitate the operation of corporations with foreign investments engaged in the rehabilitation and sound development of Japanese economy". This again does not set up a sufficient standard and can be interpreted in any way by the Minister of Finance. The Minister may choose the profession and as there is

2. (Contd) no set time limit within the five year period, the Minister may withdraw the privilege at any time, causing considerable hardship. Again the Minister might set the standard so low as to do irreparable damage to Japanese professional men in the same field.

3. There is considerable pressure for and against subject bill. As written, all important decisions bearing on tax exemptions for foreigners are left to Ministerial order. With this situation existing in subject bill, the members of the Diet will not be able to fully debate the issues involved when the bill is presented to them. They will be unable to ascertain what policies the Minister and the Cabinet may invoke in regard to subject bill during the five-year period. The Minister of Finance, under the subject bill, could relax the standards to such an extent that the Japanese would be unable to compete with those receiving foreign capital or the rules might be so stringent that no foreigner could be interested in inducing much needed capital to Japanese industries. The Diet, the Japanese business man, the foreigner and the public have the right to know the issues presented by the purported legislation. Without full debate, understanding, and publicity on all issues, the passage of said bill as written, may raise many future political and economic problems.

4. Finally, the question may arise whether those provisions of the bill granting tax advantages to foreigners under certain circumstances are in violation of the constitutional provision of Article 14, which stipulates equality of all people under the law; it may be argued that these provisions discriminate in favor of foreign nationals. Legal Section understands that the policy of partial tax exemption has been encouraged and approved by SCAP. Inasmuch as it may be said that the essential exemption provisions do not discriminate merely on the basis of the personal status of foreigners, but rather on the objective fact of investment of foreign capital, Legal Section recommends that the decision on this idsue be left to the Japanese Courts.

Incl: w/d

- A.C.C. - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. | From: Govt Sec To: CI&E Date: 23 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
the Special Taxation
Measures Law, etc.

Cy to ESS, NRS, LS/LaJ C. W.

P & P DIV

W. Nichols 26-5686

012

Effect on Missionaries, Missionary Teachers and Research Students of Proposed Amendments to Special Taxation Measures Law

CIE

GS

28 March 1950

1

1. Pursuant to request for comment, CIE herewith submits the following comments and recommendations regarding the proposed Law for the Partial Amendment to the Special Taxation Measures Law which applies tax rates specified in the Income Tax Law (now in process of amendment) to all yen and non-yen income of foreign nationals residing in Japan which is earned and received in Japan or received abroad and transmitted to Japan and converted into yen.

2. Although exemptions are provided for foreign nationals engaged in specified occupations related to foreign investment enterprises and for foreign teachers on the university and upper secondary school levels having no permanent residence in Japan, no exemptions are provided for foreign missionaries or students. Such legislation, if approved, would discourage and in many cases render impossible the entry into or continued residence in Japan of foreign missionaries and certain categories of missionary teachers for the following reasons:

a. Virtually the total income of foreign missionaries and missionary teachers in lower secondary schools, grade schools and kindergartens would be subject to Japanese taxes inasmuch as their salaries are so low that in most cases their entire income must be expended in Japan to meet expenses.

b. Although they are provided only nominal salaries keyed to a cost of living index, foreign missionaries and missionary teachers by present Japanese standards would fall into the category of millionaires since any income over and above $1,715.00 is subject to a 55 per cent tax, the highest rate on the scale. Thus, a foreign missionary or missionary teacher without dependents who receives a moderate salary of $1,800.00 would pay an income tax of $639.00, or 35.3 per cent of his income, leaving him a net income of only $1,161.00.

c. Foreign missionaries and missionary teachers with dependents will be even more adversely affected since the deduction permitted for each dependent amounts to only $33.35, a figure possibly reasonable in the case of Japanese nationals but entirely unreasonable when related to the expense incurred by a foreign national in supporting dependents in Japan (school tuition, for example, will amount to several hundred dollars per child).

Recd GS 3/29/50

d. Since foreign nationals in Japan are also subject to various local taxes, the actual percentages of income taken from foreign missionaries and missionary teachers in taxes would be much higher than those indicated by the figures given above relative to income tax alone.

1 (Cont'd) 3. It is self-evident from the figures quoted above that the proposed legislation would result in virtual exclusion of foreign missionaries and missionary teachers from Japan. At a conservative estimate, application of such high tax rates to the income of foreign missionaries and missionary teachers would have the following undesirable results:

a. Christian organizations having no substantial investment in Japan would undoubtedly find it necessary to withdraw their missions entirely due to the prohibitive expense of maintaining them in the face of such high taxation. Virtually all the Christian missions which did not have missions in Japan prior to the war and have established themselves only recently in Japan with the encouragement of the Occupation would fall into this category.

b. Christian organizations desiring in spite of such heavy taxation to maintain operations in Japan would be forced either to reduce their staffs in Japan by about 50 per cent in order to comply with present budget commitments or to raise twice as much money with which to support their Japan missions. Reduction in force would probably be the only possible course since missions are supported largely by contributions earmarked for foreign mission work, and it is not likely that contributors abroad will be encouraged to support missions in Japan under the circumstances outlined above.

c. Numerous important Christian educational programs in Japan would be similarly affected due to the inability of mission organizations to provide sufficient funds for the necessary number of missionary teachers. In this connection it should be noted that Christian organizations in Japan have traditionally placed great emphasis on Christian education in kindergartens and lower secondary schools as well as on the upper secondary school and university levels.

4. Moreover, the proposed legislation, by failing to provide exemptions for foreign students conducting research in Japan, would make it virtually impossible for research students from foreign countries to participate in research programs in Japan due to prohibitive taxes on the very limited funds at their disposal.

5. Failure on the part of the Japanese Government to provide exemptions for missionaries, missionary teachers and research students may indicate either ignorance of or complete disregard for the contributions to the rehabilitation and reorientation of Japan being made by foreign mission organizations and teachers which in the long run will be in certain respects more significant and lasting than those of commercial entrants. On the other hand,

1 (Cont'd) it is possible that the drafters of the proposed legislation are entirely unaware of the effects such a tax program would have on the financial status of foreign missionaries, missionary teachers and research students. In this connection it is worth noting that missionary income, though largely expended in Japan, is derived entirely from foreign sources and from the standpoint of the Japanese economy is similar to Tourist money.

6. Attention is invited to the unfavorable repercussions which the proposed tax measure would evoke from religious and educational circles in the United States when its provisions become known there. (It is known that missionaries now in Japan intend to make representations in the United States against taxes which will make it virtually impossible for them to maintain work in Japan.) In view of the solicitation by the Supreme Commander of missionary workers for Japan, those repercussions can hardly fail to affect this headquarters.

7. It is therefore strongly recommended that the information contained in the preceding paragraphs be communicated to the Japanese Government and that the competent officials be urgently requested to provide suitable exemptions for foreign missionaries, including missionary teachers in lower secondary and elementary schools and kindergartens, and for foreign students.

- D. R. N. - - - - - - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CFG/gb

Subject: Draft Legislation

Capt. Guida
26-6076

Ce No. From: Govt Sec To: DS Date: 28 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the Special Taxation Measures Law, etc.

Cy to ESS, NRS, LS/LAJ C. W.

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2 From: DS To: ESS DS/WJS/WWD/fiw
W. W. Diehl 26-8096
28 March 1950

1. The basic purpose of this law may be accomplished effectively without using the term "foreign national". The phrase "domiciled but not resident" may be defined to cover the required area.

2. DS feels that it would be a serious error to enact legislation granting preferential and discriminatory treatment in favor of "foreign nationals" in Japan particularly at a time when the vast majority of Japanese nationals are keenly sensitive to the current tax burden.

- W.J.S. - - - - - - - - - -

Rec'd 6:
3/28/50

Lt Col N.P.Barnett, 26-6810
NGS/MWR/WG/NFD/1a

NR 711 (29 MAR 1950)P Draft Legislation

29 MAR 1950

NR GS

1 Reference check note 2, NR to GS, 27 Mar 50 to check note 1, GS to NR, subject same as above (Partial amendments to the Special Taxation Measures Law, etc.), 27 Mar 50, in which NR objected to the above proposed legislation. NR desires to withdraw its objections since learning that supplementary provision No 2 will not apply to inheritances in 1950 or thereafter.

- H. G. S. - - - - - - - - - - - - - - - -

Recd GS
3/29/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec | To: NRS | Date: 17 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Special Taxation Measures
Law, etc.

Cy to ESS, LS/L&J

C. W.

Mr F. A. Ineson 26-7192
HGS/HBD/FAI/wk

From: NR To: GS Date: 27 MAR 1950

2. 1. NR objects to the double taxation imposed by the requirement that an income tax be paid on the value of property turned over to the government in payment of the inheritance tax.

2. Supplementary Provisions No 2 proposes that Article 3 of the old Special Taxation Measures Law shall apply with respect to the capital gain and forestry income for 1949 or therebefore which accrued due to the payment in kind under the provisions of Article 52 of the Estate Tax Law which is to be amended by the Accession Tax Law of 1950.

Recd GS 3/27/50

a. Article 3 of the old Special Taxation Law (Law No 15, 1 Sept 1946) provides for applying an income tax to the value of real property or standing trees turned over to the government as payment in kind of the inheritance tax. Under existing laws an heir of forest property may pay the inheritance tax from the proceeds of sale of timber or property or through payment in kind. In either case he is required to pay an income tax on the amount of the inheritance tax with certain deductions.

b. NR considers that this requirement is unwarranted duplicate taxation and an unwise confiscation of private property. This requirement causes an undesirable instability in the management of forest land and results in the cutting of immature timber.

Note No 2
(Cont)

1 Incl
W/d Partial Amendments to
the Special Taxation
Measures Law, etc.

Copy furnished:
ESS/IR

- H. G. S. - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JR/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec To: ESS Date: 17 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Special Taxation Measures
Law, etc.

Cy to NRS, LS/LAI C. W.

P & P DIV

Finance
Special Taxation Measures
3/27/50

H.F.Alber 26-8556
WFM/HS/HFA/lrk

2. From: ESS To: Govt Sec Date: 27 MAR 1950

1. ESS has no objection to the proposed "Law for Partial Amendment to the Special Taxation Measures Law, etc.", with the following changes:

a. Page 4, line 1, strike the words "representing" thru "paragraph" line 3, inclusive.

b. Page 4, line 24, strike the words "by" thru the end of the sentence, line 27, inclusive.

c. Page 6, line 21, strike the word "foreign".

d. Page 7, line 7, change the figure "50%" to read "30%".

e. Page 11, line 4, add ", but not later than 31 December 1950".

2. All of the above changes with the exception of item e, have been discussed with the Ministry of Finance and it is understood the Japanese Government will submit to the Government Section on 27 March amendments to effect these suggestions.

3. It is further understood that the Japanese Government will submit an amendment to extend to foreign school teachers a 50% exclusion of income for tax purposes similar to that provided in Article 5. ESS would endorse such an amendment.

Recd 65
3/27/50

1 Incl
n/c

W. F. M.
NOYES, [illegible] Col, AGD

AMENDMENTS TO THE SPECIAL TAXATION MEASURES LAW FOM 180

1. As this bill is written, all important decisions bearing on tax exemptions for foreigners are left to Ministerial order. With this situation exisiting in the bill, the members of the Diet will not beable to fully debate issues involved when the bill is presented to them. They will be unable to ascertain what policies the Minister and the Cabinet may invoke in regard to subject bill during the five year period. The Minister of Finance, under subject bill, could relax the standards to such an extent that the Japanese would be unable to compete with those receiving foreign capital. Conversely, the rules might be so stringent that no foreigner could be interested in inducing munh needed capital to Japanese industries. The Diet, the Japanese business man, the foreigner and the public have the right to know the issues presented by the proposed legislation. Without full debate, understanding, and publicity on all issues, the passage of this bill may raise many future political and economic problems.

2. This legislation grants preferential and discriminatory treatment in favor of "foreign nationals" in Japan at a time when the vast majority of the Japanese nationals are keenly sensitive to the current tax burden.

3. It might be argued that the provisions of this bill are in violation of the constitutional provision of Article 14 of the Japanese Constitution, which stipulates equality of all people under the law.

4. Although exemptions are provided for foreign nationals engaged in specified occupations related to foreign investment enterprises and for foreign teachers on the university and upper secondary school levels having no permanent residence in Japan, no exemptions are provided for foreign missionaries or students. It might be pointed out that missionary and student income, though largely spent in Japan, is derived entirely from foreign sources and from the standpoint of the Japanese economy is similar to tourist money. Christian organizations having no substantial investment in Japan would undoubtedly find it necessary to withdraw their missions entirely due to the prohibitive expense of maintaing ing them in the face of such high taxation. The bill would make it virtually impossible for foreign students conducting research in Japan due to the prohibitive taxes on the very limited funds at their disposal.

5. The basic purpose of this law may be accomplished effectively without using the term "foreign nation". The term "domiciled but not resident" may be defined to cover the required area.

6. Article 4-3 contains the phrase "in case the expenses which are ordinarily necessary for the life of a person". The determination of this will be left to the Ministry of Finance. This authorization of an administrative agency is considered excessive, inasmuch as no standards are set forth in the law. It is understood that the Ministry of Finance plans to have one standard for Chinese, another for Indians, another for Koreans, and another for Americans, etc. These will be on different living cost levels. It is felt that clear standards should be contained in the law itself.

7. Throughout Article 5, the question as to who is a person in a high position responsible for management, administration, accounting, audit or scientific technique is left to the Minister of Finance. It is recommended that a suitable set of standards be contained in the law itself.

8. Article 5-1(3) leaves to the order of the Minister of Finance what type of person is to be accepted for employment with an approved corporation to "lead and improve scientific technique." Standards should be included in the law.

9. Article 5(2) leaves it up to the Minister of Finance, and/or after consultation with the Foreign Investment Committee what type of foreign national professional is to be"engaged in such professions as facilitate the operation of corporations with foreign investments engaged in the rehabilitation and sound development of a Japanese economy." This again does not set up a sufficient standard and can be interpeted in any way by the Minister of Finance. The Minister may choose the profession and as there is no set time period within the five year period, the Minister may withdraw the privilege at any time, causing considerable hardship. Again, the Minister might set the standard so low as to do irreparable damage to Japanese professional men in the same field.

10. Article 5-3 provides that the type of business which may introduce foreign capital and scientific technique in 5-1 will be left to the determination of the Minister of Finance after consultation with the Foreign Investment Committee. Here again, no standard is provided except that the business must be for the "rehabilitation and sound development of Japanese economy." This extremely vague provision grants too wide a latitude to the Minister and may open the door to favoritism. It may be noted that the Minister of Finance may add to or eliminate from the list types of business at any time. This could lead to serious consequences. A foreign corporation, once having been allowed to enter under the rules should be allowed to continue as tax-privileged for the five year period.

11. Article 5-5 provides that the amount of capital to be brought to Japan in order to qualify for tax exemption is to be left to the Minister of Finance after consultation with the ~~Foreign Investment Board~~

Foreign Investment Board. Thus, the Minister of Finance could change the amount at any time. This might work a hardship on those foreigners who had already complied with a certain amount and were required to add more to the sum. It is also conceivable that the amount set might be so low as to irreparable injury to Japanese business.

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These suggestions and recomendations are referred to the Ministry as advice in an effort to further assist in the preparation of adequate legislation and the achievement of democratic principles.

IF MORE THAN 3(B) AND 3(C) OR (C) KNOW # 170012

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 57-6010)

February 27 , 1950

1. FOM Number: 153

2. Name of Bill: Assets Revaluation Bill

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: February 14, 1950

5. SCAP Section concerned:

Mr. M. Bronfenbronner, Internal Revenue Division, ESS.

6. Remarks: (reference:)

See attached Sheet.....

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7. G.S. Reviewers:

GS:

ESS
NS/LW

Received by GS

Date 2/21/50

(13)

DESIGNATED BY CAB. MIN. 11 JUL 52 SEC. 3(2) AND 3(3) OR (E) NNDB # 775012

No. 38

Date: Feb 20, 1950

Title of ~~Cabinet Order~~ Law

Assets Revaluation Bill

This draft ~~Cabinet Order~~ Law has been approved by the Administrative Management Agency.

Onogi Katsuhiko

Deputy Director ONOGI, Katsuhiko.

Administrative Management Agency.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NND# 775012

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JW/JW/CHH/ve

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec | To: LS/IAJ | Date: 27 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Assets Revaluation Law

C. W.

P & P DIV

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NND# 775012

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JW/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

From: Govt Sec To: NRS Date: 30 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Assets Revaluation Law

C. W.

P & P DIV

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NND# 773012

2/50

Assets Revaluation

(Fin. Mini)

Lt Col N.P.Barnett, 26-6810
MGS/MWR/WG/NPB/la
Date: 8 APR 1950

From: NR To: GS

2

1. NR has no objections to the Assets Revaluation Law as drafted.

2. NR, however, submits the following comments for matter of record:

a. A review of the law reveals that it is based on specific recommendations of the Shoup Mission as set forth in Volume II, Pages 123 - 131 inclusive of the Mission's Report on Japanese Taxation.

b. The purpose of the law is to authorize revaluation of corporate and individual assets in line with actual replacement, in present condition, at present yen value. Such revaluation will represent only a book-value gain and will not be subject to income or corporate taxes as profit.

c. The increase in revaluation, termed "revaluation profit" will be subject to a six percent tax rate. Corporations will pay such taxes as follows: 50 percent during 1950-51 fiscal year, 25 percent in 1951-52 and the remaining 25 percent in 1952-53. Individuals will pay 20 percent of the total tax due annually for the next five years.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDB # 775012

BASIC: Check sheet from GS to NE, subject "Draft Legislation" 30 Mar 50

CN#2
Contd

d. The imposition of the Revaluation Tax will, no doubt, increase to some degree the total tax burden of fisheries cooperatives and to a lesser degree individual fishermen during the next year. However, the Revaluation Tax will be offset by reduction in income and corporation taxes, in succeeding years, due to the ability to deduct larger depreciation on assets from annual income based on the higher assets revaluation. Over a period of five years, the net result will be a decided decrease of total taxes paid by corporations and individuals.

e. The law should provide for control of agricultural land prices and for land subject to the revaluation tax but transferred by inheritance to be revalued at prevailing official price.

f. Details, standards, and methods for revaluation are set forth in the law to cover the various types of corporation and individual assets.

1 Incl
w/d

- H. G. S. - - - - - - - - - - - - - -

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNCC # 775012

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CR/JR/JS/CHN/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec | To: ESS | 26-6076 | Date: 27 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Assets Revaluation Law

C. W.

P & P DIV

DECLASSIFIED E.O. 12032 SEC. 3(E) AND 3(D) OR (E) NNDS # 779012

2/27

Assets Revaluation Bill
(Fiscal Mon)

WFM/LHM/MB/dm
M. Bronfenbrenner 26-8515
Date: 28 February 1950

From: ESS To: Govt Sec

2

There is no objection to the introduction of the bill "Assets Revaluation Law in the Diet.

1 Incl
n/c

Read GS 3/1

- W. F. M. - - - - - - - -

PURCHASED FROM FREE SEC. 3(E) AND 3(B) OR (E) NNDB # 776012

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOR
(TEL. 57-6010)

February 21 ,1950

1. FOR Number: 139

2. Name of Bill: Bill for Partial Amendments to the Customs Law

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: Feburary 7, 1950

5. SCAP Section concerned:

Mr. Lassiter, Economic and Scientific Section,
Public Finance Division.

6. Remarks: (Reference:)

1. Customs Law (Law No. 61 of 1899) is attached herewith.

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7. G.S. Reviewers:

GS: ESS
LS/LJ

Received by GS

Date 2/21/52

(14)

SCAP IN [illegible] PURSUANT TO SEC. 3(E) AND 3(F) OR (E) NNDB # 778012

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JW/JW/CHN/vs

Subject: Draft Legislation

Capt. Morris
26-6076

Note No. | From: Govt Sec | To: LS/LSJ | Date: 21 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
the Customs Law

C. W.

P & PDIV

Finaud
Customs Law
3/21/

From: IS To: GS R.B. Appleton 2635-473
Date: 17 March 1950

1. Objection is made to the following provisions of subject bill: (1) The change of the word "attempt" to "preparation or attempt" in the proposed amendments to Arts. 7, 74, para. 2; 75, para. 2; 76, para. 2. The preparation antecedent to the crime and the actual attempt to commit it are materially different. So long as the acts are confined to preparation only, and can be abandoned before any transgression of public or private rights occurs, they are within the sphere of intention only, and do not amount to an attempt. The proposed changes approach dangerously close to criminal punishment for mere intentions which was the essence of the old system of "thought control". IS believes that only those acts should be punishable which are so related and near to the accomplishment of the crime that in all reasonable probability the crime itself would have been committed through them had there not been timely interference.

Recd GS 3/20/50

(2) The change in Art. 83, para. 1, which makes mandatory instead of permissive the confiscation of a vessel used for illegal importing or exporting. This change is assertedly made because of the requirement of para. 4 of SCAPIN 996, dated 4 June 1946, subject, 'Illegal Import and Export Trade'. But IS concurred on 21 February 1950 with ESS checksheet, dated 11 Feb 50, proposing to rescind SCAPIN 996, and replace same by a SCAPIN which "will permit the Japanese Government to deal with illegal trade under Japanese laws in accordance with the policy of permitting and encouraging the Japanese Government to exercise the normal powers of government in matters of domestic administration". SCAPIN 996 was implemented by Imperial Ordinance 277 of 1946, which

(Cont'd)

(Cont'd) will undoubtedly be repealed when the SCAPIN is rescinded. There is certainly no need to change the Customs Law itself years after the issuance of the SCAPIN, especially when rescission of the SCAPIN is now under consideration. The latest SCAP policy concerning customs procedures is expressed in SCAPIN 2083, dated 20 Feb 1950, subject, 'Customs, Immigration and Quarantine Operations,' which states in para. 4:

> "The Japanese Government is directed to review existing procedures pertaining to customs...and to take such actions as may be necessary to establish effective customs...controls in agreement with generally accepted international practice."

At present the Japanese Government has no criminal jurisdiction over Allied vessels (see SCAPIN 1758, dated 5 August 1947, subject, 'Exercise of Jurisdiction over Vessels'. However, as such jurisdiction will be extended to them sooner or later, IS believes that the Japanese customs law should be made to conform as far as possible with generally accepted international practice. With respect to the confiscation of vessels it is believed that some procedure should be included affording owners a day in court to prove their innocence of the illicit use of their vessel, or at least affording owners the opportunity to petition a specified officer of the Government for the discretionary return of a seized or forfeited vessel upon a showing that the forfeiture was incurred without privity or any intention on the part of the petitioner to defraud the revenue or to violate the law. (Compare 19 USCA 1584, 1594, 1603, 1613). It is suggested that Diplomatic Section should be afforded an opportunity to comment concerning the appropriateness of the proposed procedure.

(3) The amendment to Art. 86 in so far as it permits a customs officer to examine private books and papers which may tend to incriminate a suspect without a warrant from a judge and without the voluntary consent of the suspect.

(4) The addition of the word "detention" in Arts. 87 and 93. This should be changed to read "holding in custody articles voluntarily submitted".

(5) The new paragraph added next to para. 2 of Art. 89 referring to search of women's bodies. If this subject is to be explicitly referred to, it is suggested that a provision similar to the following be substituted:

> "3. The Superintendent of the Customs House is authorized to employ female inspectors for the examination and search of persons of their own sex."

(6) The insertion in Art. 93 of the words "Inspection (limited to case under Article 86)". The words in question should be changed to read "Inspection

2 Cont'd) (except the examination under Article 31)".

2. IS also suggests that Chapter 7 of the Customs Law (Law No. 61 of 1899), entitled "Investigation and Disposition of Cases of Violation", should be studied with a view to complete revision as soon as possible so as to confora to the new Constitution and Code of Criminal Procedure.

a. This chapter contains numerous provisions concerning investigatory powers of customs officials which differ from the Code, some of which are of doubtful constitutionality. For example, Article 84 permits customs officials to search any place without a warrant, "if they deem it necessary in order to uncover possible violations"; and Article 85 permits customs officials to demand production of "any material" that a person keeps on his person which may establish the fact of violation." Under Article 82, para. 2, a thirty thousand yen fine is provided for a person who has "refused, disturbed or evaded the official duties performed by the Customs officials" in accordance with the provisions of these Articles. Searches without warrant may be necessary of incoming baggage and passengers from foreign lands at the docks, and the law might well permit searches at other places specifically designated and related to customs duties on reasonable grounds to suspect a violation of the customs laws, but Article 84 goes too far in permitting search of any place in the purely subjective discretion of the official. Article 85 would seem to violate the constitutional immunity against compulsory self-incrimination in so far as it compels production of private books and documents which might tend to incriminate, with the purpose of using them as evidence in subsequent prosecutions.

b. This chapter also contains provisions for a system of "Disposition by way of Notification" or "Tsukoku-Shobun" by which the Superintendent of Customs notifies a person under suspicion that he has five days to turn over to the Custom House the amount equal to the fine or forfeit, confiscated objects and the amount equal to the duties. If he complies, he is granted immunity from prosecution; if not, the Superintendent charges the case to the public procurator. (See Arts. 93. 2-97.2 inclusive). This system of compromising criminal cases tends to encourage corruption of customs officials, especially if the procurators have no independent right of prosecution of customs violations without a charge from the Superintendent of Customs. Moreover, its constitutionality is open to question. (See Checksheet from IS to GS, dtd 9 March 50, subject, 'Law for Partial Amendments to the Anti National Tax Evasion Law') since it really establishes a summary procedure of criminal punishment by administrative officials instead of criminal courts.

3. IS also objects to the wording of Article 82-2 of the Customs Law, which provides that no person who is liable to penalty under certain Articles of the Law "may plead non-guilty on the ground of inadvertency." The Article should be re-written to make its meaning clear. Probably what is intended is to provide that acts done in violation of the named Articles are punishable regardless of

2 (Cont'd) specific criminal intent.

4. LS also objects to Article 82-3 of the Customs Law because, in effect, this provision creates a conclusive presumption of guilt on the part of an employer (natural or juridical) for the criminal acts of his employees or agents even in cases where in reality the individual employer or the responsible officers of the juridical person are completely innocent.

5. LS objections and suggestions in paras. 2-4 above, which refer to portions of the Customs Law not amended in subject bill, arose incidentally in the course of reviewing the portions of the law partially amended by subject bill. In the time available LS was unable to review the entire Customs Law, which was enacted originally in 1899. Therefore, failure to object to other provisions of the old Law should in no way be construed as approval of the constitutionality or legality thereof. On the contrary, LS advises that a thorough study should be made of the entire Law with a view to complete modernization and revision of its provisions as soon as practicable.

Incl w/d

---------- A. C. C. ----------

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHM/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. 1. | From: Govt Sec | To: ESS | Date: 21 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to
the Customs Law

C. W.

D

Mr. Lassiter, 26-6137
WFM/EMR/JMH/JTL/ftk

0106 1 FEB 1950 ESS/PF

1 MAR 1950

From: ESS To: Govt Sec

2. There is no objection to the introduction in the Diet of the attached draft bill concerning Partial Amendments to the Customs Law, as proposed by the Finance Ministry.

1 Incl
n/c

W. F. M.

Rec'd GS 2/1

1. Articles 7, 74 (2), 75 (2) and 76 (2): The preparation anecedent to the crime and the actual attempt to commit it are materially different. So long as the acts are confined to preparation only, and can be abandoned before any transgression of public or private rights occurs, they are within the sphere of attention only, and do not amount to an attempt. The proposed changes dangerously approach to criminal punishment for mere intentions. Only those acts should be punishable which are so related and near to the accomplishment of the crime that in all reasonable probability the crime itself would have been committed through them had there not been timely interference.

2. Article 82 (3) of the Customs Law should be re-written to make its meaning clear. Probably what is intended is to provide that acts done in violation of the named articles are punishable regardless of specific criminal intent.

In effect this Article creates conclusive presumption of guilt on the part of an employee (natural or juridical) for the criminal acts of his employees or agents.

3. Article 83 (1): At present, the Japanese Government has no criminal jurisdiction over Allied vessels (SCAPIN 1758, 5 Aug 47). However, as such jurisdiction will be extended to them sooner or later, it is believed that the Japanese Customs Law should be made to conform with generally accepted international practice. With respect to the confiscation of vessels, it is believed that some procedure should be included affording owners a day in court to prove their innocence of illicit use of their vessels, or at least affording owners the opportunity to petition a specified officer of the government for the discretionary return of a seized or forfeited vessel upon a showing that the forfeiture was incurred without privity or any intention on the part of the petitioner to defraud the revenue or to violate the law.

4. Article 84 goes too far in permitting search in any place at the purely subjective discretion of the official.

5. Article 85 violates the constitutional immunity against self-incrimination in so far as it compels production of private books and documents which might tend to incriminate, with the purpose of using them as evidence on subsequent procedures.

6. Article 86 is objectionable in so far as it permits a customs officer to examine private books and papers which may tend to incriminate a suspect without a warrant from a judge and without the voluntary consent of the suspect.

7. Articles 87 and 93: The word "detention" should be changed to read: "holding in custody articles voluntarily submitted."

8. Article 89 (3): If this subject is to be explicitly referred to, then the following provision should be substituted: "3. The Superintendent of the Customs House is authorized to employ female inspectors for the examination and search of persons of their own sex."

9. The insertion in Article 93 of the words: "Inspection (limited to case under Article 86)" should be changed to read: "Inspection (except the examination under Article 31)".

10. Articles 93 (2) to 97 (2) inclusive: This system of compromising criminal cases tends to encourage corruption of customs officials, especially if the procurators have no independent right of prosecution of customs violation without a charge from the Superintendent of Customs. Moreover, its constitutionality is open to question since it really establishes a summary procedure of criminal punishment by administrative officials instead of criminal courts.

11. It is recommended that a thorough study be made of the entire Law with a view to complete modernization and revision of its provisions. It is believed that this law, originally enacted in 1899, is outdated and obsolete.

- -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CTG/cb

Subject: Draft Legislation

Capt. Guida

Note No. | From: Govt Sec | To: LS/LAJ | Date: 26-6076 29 March 1950 revised

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Ministry of Finance.

2. Your prompt comment is requested.

1 Incl
~~Custom Division's Opinion Regarding Legal Section's Suggestions on Proposed~~
Partial Amendment to Customs Law

C. W.

P & P DIV

SUBJECT: ~~Gretton Division's Opinion Regarding Legal Section's Suggestions on Proposed~~ Partial Amendment to Customs Law

1.

2. From: LS/LAJ To: Govt Sec R. B. Appleton 2635-473 1 April 1950

1. As far as the revised draft of subject bill itself is concerned LS objections made to the previous draft by checksheet dated 17 March 1950 are mainly satisfied with the following two important exceptions:

a. The addition of the word "preparation" in Articles 7, 74, 75 and 76.

b. The change of the word "may" to "shall" in Article 83, par. 1.

2. LS refrains from further comment on other provisions of the Customs Law discussed in checksheet of 17 March 1950 which are not referred to in subject bill itself. LS reaffirms the comments in its previous checksheet and repeats that a thorough revision of the entire Customs Law is necessary as soon as practicable. Detailed reply to Customs Division comments is deferred pending submission of a draft bill for complete revision of the Customs Law.

1 Incl:
w/d

- A. C. C. - - - - - - - - - - - - - - -

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 57-6010)

March 27, 1950

1. FOM Number: 189

2. Name of Bill: **Bill concerning Travel Expenses for National Public Service Personnel and Others**

3. Competent Ministry: **Ministry of Finance**

4. Date of Cabinet Approval: **March 24, 1950**

5. SCAP Section concerned:
Mr. Herbster, Finance Division, E.S.S.
Mr. DeAngeles, Civil Service Division, G.S.

6. Remarks: (Reference:)
See attached paper
.....
.....
.....
.....
.....

7. G.S. Reviewers:

GS:
ESS
LS/LJ
GS/CS

Received by GS

Date 3/27/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JA/JW/CHE/gb

Subject: Draft Legislation

From: Govt Sec To: LS/LJ Capt. Morris 26-6076 Date: 27 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl

law Concerning Travel Expenses
for National Public Service
Personnel and Others

Cy to ESS C. W.

P & P DIV

(5)

Law Concerning Travel Expenses for National Public Service Personnel and Others

Finaud
3/27

From: LS/I&J To: GS R.T. BRUNCKHORST-2635-420
Date: 4 April 1950

1. Subject bill supersedes a great number of Cabinet Orders on the subject. It is well written and leaves only administrative procedure to Cabinet Order. Briefly, the law provides for payment and reimbursement for travel in Japan and in foreign countries for government workers. This includes dependents where eligible. Different types of "class" travel are provided for among the various officials, depending on rank. This also holds true for extra allowances in foreign travel. Rates of payment and conditions are set forth in the law.

Recd 6/5 4/7/50

2. LS has no legal objections to subject bill, the policy behind which is a matter of concern to Civil Service Division, GS.

Incl: w/d

- A.C.C. - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CHN/gb

Subject: Draft Legislation

Note No. 1. From: Govt Sec To: ESS Capt. Norris 26-6076 Date: 27 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Law Concerning Travel Expenses
for National Public Service
Personnel and Others

Cy to LS/LJ C. W.

Mr. Herbster, 26-6070
ECH/WFM/ECH/JWH/ftk

O10(27 Mar 50)ESS/PF

From: ESS To: Govt Sec

30 MAR 1950

2. ESS has no objection to the introduction of the Law Concerning Travel Expenses for National Public Service Personnel and Others.

1 Incl
n/c

Verd 6⁵ 3/31/50

W. F. M.

CIVIL SERVICE DIVISION
Government Section

31 March 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT: Law Concerning Travel Expenses for National Public Service Personnel and Others (Draft)

1. Civil Service Division does not officially object to subject bill but draws your attention to several matters connected with it, most of which should be primarily of interest to ESS Finance.

2. The bill appears to lack measures adequate to prevent large scale abuses of travel expense monies. It has been common practice to utilize such money as a means of supplementing regular incomes. Many devices are used whereby substantial parts of the cash given to the employee in advance of travel may be kept by him. Such practices when carried to an extreme may impair the effectiveness and equitability of the compensation plan.

3. An illustration of looseness of the regulations is Article 47, par. 2. Apparently whether employees who have been dismissed are to be paid travel expenses or not depends entirely upon intent rather than whether travel is actually required and accomplished. Submission of a claim for reimbursement of travel could well be substituted for advance payment.

4. The question is raised as to whether it is essential that the Cabinet be given such a free hand to revise rates while the Diet is not in session, as set forth in par. 10 of the supplementary provisions.

W. Pierce MacCoy

W. PIERCE MACCOY
Acting Chief

WPM/GWP/feh

Recd GS
3/31/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CFG/vs

Subject: Draft Legislation

From: Govt Sec To: ESS Capt. Guida 26-6076 Date: 5 April 1950 revised

1. Immediate introduction of the attached/draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Travel Expenses for Natl. Public Service Personnel and Others

Cy to LS/L&J C. W.

File: 010(5 Apr 50)ESS/PF

From: ESS To: Govt Sec WFM/EMR/JWH/LAH/eb Mr. Herbster, 26-6070 13 APR 1950

2 There is no objection to the immediate introduction in the Diet of the revised draft bill, Travel Expenses for National Public Service Personnel and Others, as proposed by the Finance Ministry.

1 Incl
n/c

Rec'd GS 4/13

W.F.M.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CFG/ve

Subject: Draft Legislation

Capt. Cuida
26-6076

No. From: Govt Sec To: LS/LAJ Date: 5 April 1950 revised

1. Immediate introduction of the attached/draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Travel Expenses for Natl. Public Service Personnel and Others

Cy to LSS C. W.

P & P DIV

SUBJECT: Travel Expenses for Natl.
Public Service Personnel
and Others

1.

2. From: LS/IAJ To: Govt Sec R. T. Brunckhorst 2635-420
Date: 10 April 1950

1. LS forwarded check sheet on revised subject bill 4 April 1950.

1 Incl:
w/d

Rec'd GS 4/10

------------------------------------A. C. C. ----------------

CIVIL SERVICE DIVISION
Government Section

(For Min)

6 April 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT: Law concerning Travel Expenses for National Public Service Personnel and Others (Draft)

1. Civil Service Division does not object to the revised draft of subject bill. The changes appear to be improvements and in line with the suggestions made in this Division's memorandum of 31 March.

W. PIERCE MACCOY
Acting Chief
Civil Service Division

WPM/GWP/feh

to be submitted for GS approval
Legislative Affairs Section, FOR.
(TEL. 87-6010)

Feb. 3 , 1950

1. FOR Number: 57

2. Name of Bill: Bill for Partial Amendments to the Corporation Tax Law.

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: Jan. 27

5. SCAP Section concerned: Mr. Bronfenbrenner: Internal Revenue Division, ESS.

6. Remarks: (reference:)
Corporation Tax Law (Law No. 28 of 1947):
herewith enclosed.

7. G.S. Reviewers:

CS:
ESS
LS/LJ
~~GS/PA~~

Received by GS

Date 2/3/50

(16)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CH/JH/JW/CHH/vs

Subject: Draft Legislation

Note No. | From: Govt Sec | To: ESS | Capt. Norris 25-6076 | Date: 3 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the Corporation Tax Law

C. W.

P & P DIV

(For Exec)

Dividend + Corporation Tax Laws

2. From: ESS To: Govt Sec

K.P. Snow 26-8515
WFM/[illegible]/KPS/CCG/lrk
Date: 14 FEB 1950

There is no objection to the introduction of "Partial Amendments to the Corporation Tax Law".

1 Incl
m/c

- W. F. M. - - - - - - - - - - - -

(For 2nd)

Resident + Corporation Tax Law

2. From: ESS To: Govt Sec

K.P. Snow 26-3515
WFM/[illegible]/KPS/COG/lrk
Date: 14 FEB 1950

There is no objection to the introduction of "Partial Amendments to the Corporation Tax Law".

1 Incl
n/c

- W. F. M. - - - - - - - - - - - - -

CLASSIFICATION CHANGED TO SECRET BY [illegible] AND [illegible] ON [illegible]

Lt Col N.P.Barnett, 26-6810
HGS/MWR/WG/NPB/la

NR 711 (25 FEB 1950) Draft Legislation

NR GS 25 FEB 1950

1 1. Reference draft legislation "Law for Partial Amendments to the Corporation Tax Law". At request of Lt Col Barnett draft was handcarried to NR on 9 Feb by Capt Norris, GS, for comments. NR offers the following comments:

a. The law proposes that annual reserves of family corporations in excess of 500,000 yen should be taxed at a rate of 7 percent whereas annual reserves of all other corporations will be taxed at a rate of 2 percent. This discrimination will have an undesirable effect on conservative forest management since a large number of family corporations own and manage large areas of forest land.

b. Forest incomes fluctuate from year to year, therefore family corporations must set aside reserves from forest income during the years when the forest income is largest. Such reserve provides for seedling production, reforestation, plantation care, and other management activities during lean years. The imposition of a 7 percent tax rate on family corporation reserves in excess of 500,000 yen will result in reluctance of these corporations to set aside reserves of this size. Consequently sufficient funds will not be available for essential forest management activity during the lean years with resulting delays in seedling production, reforestation, plantation care and other management activity.

c. An enactment of this tax on the annual reserves of family corporations may result in an additional expense to the Japanese Government since it will have to bear the cost of reforestation. Family corporations should be included with "Other Corporations" and have a 2 percent tax on annual reserve.

2. NR suggests that the following amendment be inserted in Article 9, par 5 immediately following the words "Fishermen's associations"; "including cooperatives and federations authorized under provisions of the Fisheries Cooperative Associations Law (Law No 242, Dec 15, 1948)".

- H. G. S. - - - - - - - - - - - - - - -

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CR/JM/JW/CHM/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec To: LS/LAJ Date: 3 February 1950 26-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Corporation Tax Law

C. W.

P & P DIV

From: LS To: GS R.T. BRUNCKHORST-2635-420
Date: 17 February 1950

1. Subject Bill is designed to amend the Corporation Tax Law in partial conformation to the recommendations of the Shoup Tax Mission report. A brief resume' of some of the important changes follow: (1) Exempt corporations are enumerated and others which will pay tax on profit-making activities only; (2) accounting periods will be reported and approved; (3) family corporations are defined; (4) shareholders in a corporation being amalgamated will not pay tax on paid up amounts of stock; (5) corporation will not pay tax on dividends of surplus from another corporation in which it is a shareholder; (6) Foreign and Domestic Corporations must obtain governmental approval of evaluation and accounting methods used; (7) corporations using "blue returns" based on books and records set up by the government will receive certain tax advantages; (8) the representatives of the corporation must sign and seal the returns; (9) civil fraud penalties provided for; (10) interest provided on over-payment refunds; (11) re-investigation of tax liability; reconsideration of tax liability and means of administrative appeal are provided for; (12) public notice of corporations with incomes in excess of one million yen; and (13) new domestic and foreign corporations shall report purpose of business, etc. to government.

Reig GS 2/20

2.
(Cont'd) 2. Article 48(2) "provided, however, that the punishment may be remitted according to the circumstances" should be changed to "provided, however, that the punishment may be remitted or mitigated according to the circumstances".

3. Article 28-(3) "provided, however, that the punishment shall be remitted according to the circumstances" should be changed to "provided, however, that the punishment shall be remitted or mitigated according to the circumstances".

The above revisions would allow the court another alternative besides remittal.

4. In Article 25-7-(1) the word "not" has been omitted.

5. Legal Section has grave doubts whether the penalty of penal servitude in Article 48(2) and (3) is advisable. Is this not too severe a penalty for not signing a return? This may be a matter of policy.

6. It is suggested that the numerous references to "Ordinance" be clarified by stating whether a Cabinet Order or a ministerial order is meant. It is suggested to leave out in the statute all delegation to Order and provide a general catch clause of the following nature: "Necessary administrative and procedural matters shall be provided for by Cabinet Order".

Otherwise there are no legal objections to the Bill.

Incl: w/d

----------A.C.C----------

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) GM/JM/JW/CHE/vs

Subject: Draft Legislation

Capt. Norris
25-6076

Note No. | From: Govt Sec | To: ESS | Date: 9 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the House of Representatives.

2. Your prompt comment is requested.

1 Incl
Amendments to Bill for
Partial Amendments to
Corporation Tax Law

C. W.

P & P DIV

Finance
Corporation Tax

M. Bronfenbrenner 26-3515
WFM/[illegible]/KPS/MB/lrk
Date: 14 MAR 1950

2 From: ESS To: Govt Sec

ESS disapproved the above amendments to the Corporation Tax Law. The Budget will not permit reduction in corporate tax rates at this time, and rate discrimination between different classes of corporations runs counter to the Shoup Report.

1 Incl
n/c

- - - - - - - - - - - - - - - W. F. M. - - - - - - - - - - - -

Rec'd GS 3/14/50

Bill

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to be submitted for GS approval
Legislative Affairs Section, FOR
(TEL. 67-6010)

February 24 , 1950

1. FOR Number: 148

2. Name of Bill: Bill for Partial Amendments to the Anti National Tax Evasion Law

3. Competent Ministry: Ministry of Finance

4. Date of Cabinet Approval: February 14, 1950

5. SCAP Section concerned:
Mr. Rerrin, E.S.S., L.R.D.

6. Remarks: (Reference:)
Anti National Tax Evasion Law (Law No. 67 of 1900)
is attached herewith.

7. G.S. Reviewers:

GS:
ESS
LS/LJ.

Received by GS

Date 2/24/50

(17)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) GS/JS/JW/CHM/vs

Subject: Draft Legislation

Capt. Norris

Note No.	From: Govt Sec To: ESS Date: 21 February 1950
	1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.
	2. Your prompt comment is requested.
	1 Incl Amendments to Anti- National Tax Evasion Law

C. W.

P & P DIV

2/24

Amdmt to Anti-National
Tax Evasion Law
(Fin Min)

2 From: ESS To: Govt Sec

WFM/LKM/JEM/RED/my
Ray E. Davis 26-8476
1 MAR 1950

There is no objection to the introduction of the bill "Law for Partial Amendments to the Anti-National Tax Evasion Law", in the Diet.

1 Incl
n/c

- - - - - - - - - - - - - - - - -W. F. M.- - - - - - - - - - - - -

Rec'd GS 3/1

SPECIAL DELIVERY

GHQ SCAP
ESS / IRD
MAR 1 1950
OUT

ECONOMIC AND SCIENTIFIC SECTION
Internal Revenue Division

RED/my
14 March 1950

MEMO FOR FILE:

SUBJECT: Proposed Legislation - Law for Partial Amendment to the Anti-National Tax Evasion Law

1. Reference is made to the proposed legislation entitled "Amendments to the Anti-National Tax Evasion Law" which was submitted by the Finance Ministry. On 1 March 1950, the Internal Revenue Division submitted an endorsement to the check sheet stating that there was no objection to the introduction of the bill. Under date of 9 March 1950, the Legal Section submitted a check sheet in which they recommend that the law not be amended but that a new law be written.

2. On 14 March 1950, a conference was held with Mr. Chu, Chief of the Research Section of the Taxation Bureau, Ministry of Finance; Mr. Shiba, secretary for the Research Section and with Mr. Ueno of the Attorney General's office in regard to the necessity at this time for the proposed amendments.

3. Inasmuch as it would be impossible at this late date to rewrite a complete new Anti-National Tax Evasion Law to be introduced at this session of the Diet, the present proposals were gone over item by item to determine the amendments that are essential to be proposed at this session. Most of the amendments are deemed necessary by the Japanese officials present at the conference however they admitted that a few of the amendments could be omitted at this time. They further state that it would be nearly one year, or at least by the end of the calendar year 1950 before a complete new Anti-National Tax Evasion Law could be rewritten. This time is necessary to get the court's reaction as to the "Tsukoku-Shobun", for there is a question in their mind as to whether or not this will be interpreted as a criminal or a civil procedure.

4. The following comments pertain to the various amendments as proposed in the draft.

Article 3-(2) This article is deemed not necessary at this time.

Article 33 - This article is deemed by the Japanese officials to be necessary at this time inasmuch as a new bill may not be ready for one year.

Article 6 - This amendment is deemed necessary under the new constitution.

Articles 7 thru 10 — The amendments to these articles are deemed necessary to enable the tax officials to keep the evidence which is voluntarily submitted.

Article 12 — This amendment is deemed necessary in order to get help from another bureau or another tax office in the event of large scale tax drives. At the present time another office or another bureau cannot aid in such drives unless such other office or other bureau has some evidence in connection with the case.

Articles 13 & 14 — The Japanese officials state that these amendments are merely made to correct a mistake made in the amendments last year. Under the current law, there is no provision for an official of the agency to take the measures as provided by Article 13.

Article 17-(1) — This amendment is deemed necessary inasmuch as 7 days is too short a period for the taxpayer to comply with the notification. If the period is not extended to 20 days, it would overload the courts with cases which might otherwise be settled before transfer to courts.

Article 17-(2) — This proposed amendment can be eliminated.

Article 18 — These proposed amendments are necessary in order to clarify previous articles which are proposed to be amended.

Article 21 — The Japanese officials state that this proposed amendment can be eliminated.

Conclusion

5. Therefore it is the opinion of the Japanese officials that the amendments proposed in the draft are all necessary with the exceptions of article 3-(2), 17-(2), and Article 21.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CHR/vm

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec | To: LS/LAJ | Date: 24 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Finance Ministry.

2. Your prompt comment is requested.

1 Incl
Amendments to the Anti-National Tax Evasion Law

C. W.

P & P DIV

Junio

Law For Partial Amendments to the
Anti National Tax Evasion Law

2/24

From: LS To: GS R.B. Appleton-2635-420
Date: 9 March 1950

1. Subject bill proposes to partially amend the so-called "Anti National Tax Evasion Law" (Law No. 67 of 1900) in the direction of increasing the power of tax officials to investigate and dispose of violations of national taxes. This is the fourth time during the Occupation that partial amendments have been proposed to this antiquated Law, which fails to essentially modify its basic provisions. In the past Legal Section has confined its comments to the legality of the partial amendments proposed, but in connection with the fundamental revision of the Japanese taxation system pursuant to the Shoup Mission Report the time appears now ripe for the complete abolition of the old Law and subetitution of modern methods of investigation of tax violations, as well as disposition of offenders in compliance with the new Constitution and Code of Criminal Procedure. The Attorney General's Office urges subject bill as a "temporary measure" until a new system can be devised. Legal Section, however, points out that we have already had three years of so-called "temporary" partial amendments to this Law, and that clearance of subject bill at this time will be considered by the people as a definite approval in implementation of the Shoup Mission Report. Subject bill, which is not considered essential to enforcement of the existing system, should, therefore, be withheld until an adequate bill can be drafted fundamentally changing the whole system.

Recd GS 3/11

2.
Cont'd) 2. The "Anti National Tax Evasion Law" really covers two subjects, namely, (a) investigatory powers of tax officials in connection with criminal violations of national tax laws, and (b) a special procedure for disposition of indirect national tax violations known as "Tsukoku-Shobun" or "Disposition by way of Notification".

a. As far as the investigatory powers of the tax officials are concerned, they are contained in the first twelve articles of the Law. In theory these are supposed to be divided into compulsory and non-cumpulsory powers. Compulsory powers of "inspection, search or attachment" are provided for in Article 2, which requires the tax official to procure a certificate of "permission" from a judge in advance. This might be considered to substantially comply with Article 35 of the new Constitution, requiring judicial warrants for search or seizure, although the provisions differ in details from the new Code of Criminal Procedure. Article 3, which permits searches and seizure without permission of a judge in indirect national tax violations in certain cases "if necessary and urgent for the purpose of the collection of evidence" is of doubtful constitutionality. Subject bill proposes to amend these provisions by adding two new articles, Articles 3-(2) and 3-(3) permitting tax officials to utilize experts in their investigations, and to make such dispositions as unlocking or breaking in doors, or breaking open objects; by adding a new paragraph to Article 6 requiring an adult woman to be present (as a witness) when tax officials search a woman's body, provided however "this shall not necessarily apply to an urgent case"; and by changing parts of Article 7, 9, 10 and 18 to permit tax officials to treat articles held in custody after "they were "voluntarily submitted" in the same manner as articles "attached" with permission of a judge. These new powers would increase the resemblance of a tax inspector to a judicial police officer under the new Code of Criminal Procedure. They are asserted to be necessary because the violators of the tax laws are becoming increasingly reluctant to consent voluntarily to the non-compulsory investigatory powers primarily relied upon by tax inspectors in the past. However, if it is deemed essential to give tax inspectors these powers instead of relying on the regular law enforcement officers, tax inspectors should be classified as special judicial police under the new Code of Criminal Procedure, in connection with national tax violations. This would eliminate the variation in details of procedure under the Anti National Tax Evasion Law from the new Code of Criminal Procedure, and would permit repeal of all provisions of the 1900 Law dealing with compulsory investigatory powers. Such a provision would also eliminate the necessity for the so-called non-compulsory investigatory powers of tax officials provided for in Article 1 of the 1900 Law. This

2. Cont'd) article permitted tax officials to question suspects or witnesses, examine objects, books, documents, etc. possessed by them, and "hold in custody objects voluntarily submitted by these persons". The Code of Criminal Procedure contains similar powers for judicial police officials but with additional safeguards not present in the 1900 Law. For example, Article 19-2 of the 1900 Law provides:

> "A person who has refused, disturbed or evaded the examinations by tax official to be made pursuant to Article 1, Par. (1) in respect to an offense against indirect national taxes, shall be fined not exceeding 30,000 yen."

It seems absurd to refer to a power as "non-cumpulsory" or "voluntary" when there is a criminal penalty provided for refusal to consent to its exercise.

b. As far as the special procedure for disposition of indirect national tax violations by "Tsukoku-Shobun" or notification is concerned, it is prescribed in Arts. 13-22 of the Law. Under it the tax officials report the result of their investigation to the Chief of their office. If the Chief is convinced that there was a violation of the law he notifies the violator that he has seven days to pay an amount equal to the criminal fine provided by the law for that violation. In case the violator complies with the notification he is immune from criminal prosecution for the same offense, but if he fails to comply, a charge is filed with the public procurator. Subject bill, apart from some technical and unobjectionable amendments of Articles 12, 13, 14 and 17, proposes to change Article 21 by providing that "offenses against indirect national taxes shall be taken up by courts only when and after the charge to the prosecutor" has been made by the tax official. This change is objectionable because it would prevent the procurators from prosecuting a violator of the indirect national tax laws even where the tax officials fail to charge him with it because of inefficiency or because they have been bribed by the violator. Moreover, Legal Section has grave doubts about the constitutionality of the whole notification system. It is one thing for the government to compromise a civil action. But it is quite another thing to permit a person suspected of committing a criminal offense to buy immunity from prosecution by paying the equivalent of the criminal fine to the tax offices.

3. The notification system is in reality a system of criminal punishment by administrative officials instead of criminal courts. Although the payment is called a civil penalty instead of a criminal penalty it involves a decision by the tax officials in an individual case that a criminal

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Cont'd) violation of law has been committed, and there is the threat of criminal prosecution if the notification is not complied with within the prescribed period. The amount paid is identical to the criminal penalty and imposed because of an offense for which criminal prosecution is threatened. This appears to be a judicial decision in a criminal case by an administrative official. To be sure, it may not be considered giving an agency of the Executive final judicial power contrary to Article 76 of the Constitution because the taxpayer may always, even after having paid the money to the tax official, bring a suit against the State to recover the payment, on the basis that his payment was enforced by unconstitutional means. Nor is it an absolute denial of the right of access to the courts guaranteed by Article 32 of the Constitution, or of the right to a speedy and public trial guaranteed by Article 37 of the Constitution to the accused in all criminal cases. For the taxpayer may refuse to comply with the notification and will then be assured his "day in court" to defend himself in public before the regular judiciary. But in practical application the system operates to deny public trial and access to the courts because most taxpayers prefer to comply with the notification rather than face a criminal prosecution, and so far no-one has brought a civil action to recover the payment as an illegal or forced exaction. Even innocent persons may prefer to pay the tax official the fine, and perhaps far more than the fine as a bribe, rather than face the disgrace of criminal prosecution.

4. Certainly a system whereby prosecution of violators can be prevented by payments made in secret to tax officials tends to encourage corruption of such officials, particularly if the procurators have no independent right of prosecution. Legal Section believes that the entire system, apart from being constitutionally questionable, is unethical and encourages corruption and dishonesty by taxpayers and officials. There is a system of punishment without public trial under the Code of Criminal Procedure, known as Summary Procedure. Under that procedure the procurator demands the Summary Order from a court publicly; the Court sends the notification and signs the order if the person fails to demand a public trial within 7 days. The person notified is also indicted by a formal written indictment filed in court by the procurator simultaneously with the demand for the Summary Order, and as an accused has the right to a lawyer to defend him, if necessary, at State expense. He understands that he has a right to request public trial, and his decision to pay the fine is actually an admission of guilt similar to a plea of guilty. Since the Summary Procedure system under the new Code has been held constitutional by the Supreme Court it is suggested that the notification system be abolished and that violations of indirect national tax laws be punished by regular public trial before the Courts,

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Cont'd) or at least by Summary Procedure under the new Code. If necessary the present limits on the fines which may be imposed by Summary Order could be removed in tax violation cases.

5. For all these reasons, Legal Section is opposed to subject bill as well as to any partial amendment of Law 67 of 1900 and believes that the system under this Law should be completely abolished and replaced by a modern and constitutional system.

Incl: w/d

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