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A COMPARISON OF INCOME TAXES IN GREAT BRITAIN AND THE UNITED STATES

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PART II

Special treatment is given to holding and subsidiary companies, distinctions are made between different types of investment income, etc. Small businesses are eliminated from liability for the Profit Tax, since the tax is calculated on the profits in excess of 2,000 pounds for any twelve-month accounting period. The tax is assessed by the Inspector of Taxes, and is due within one month of the date of assessment.

After computing the Profits Tax, this amount is deducted from the corporation's taxable income, and the balance of income is subject to the regular income tax of 45%. The effect of the British Profits Tax is to encourage corporations to retain their earnings and use them for business expansion, rather than to distribute earnings as dividends.

The opposite effect is obtained by the American corporation tax system. Corporate incomes in the United States are subject to a normal tax, plus a surtax on income in excess of \$25,000. The new Excess Profits Tax imposes a tax on profits in excess of the average net profits earned during the four years 1947 through 1949, or in excess of a credit computed under various other methods. In addition a special surtax is imposed under Section 102 on corporations improperly accumulating surplus. This surtax is imposed upon the undistributed earnings, and there is no liability for the special surtax if the corporation pays sufficient dividends. The purpose of this surtax is to close the loophole in the tax law which exists because of the difference between rates of tax on corporations and on individuals. For large incomes, the rate on corporations is lower than the rate on individuals. A corporation which accumulates its earnings, instead of distributing them, may help to avoid a surtax on its stockholders, and therefore becomes liable to a penalty surtax, in addition to its normal and ordinary surtax. If, however, the corporation can prove that sound business management requires that the earnings be plowed back into the business or retained for future use, no penalty surtax will be imposed. The penalty surtax however forces distribution of earn-

ings in many situations when such distribution may contribute to an inflationary trend.

ADMINISTRATION OF THE INCOME TAX

In the United States, the taxpayer or his accountant, attorney or agent, prepares the income tax return, reporting his taxable income, taking those deductions to which he believes he is entitled, computing the tax and remitting the balance, if any, of the tax due (or the installment due, in the case of corporations). The tax return is filed with the Collector of Internal Revenue of the district in which the taxpayer resides or conducts his business. The Collector segregates the "small" returns, on which net incomes of not more than \$5,000 derived chiefly from salaries are reported, audits them, conducts any necessary negotiations with the taxpayers, and closes these cases. Individual returns reporting adjusted gross income of less than \$7,000 and total receipts from business of less than \$25,000 are also handled in this manner.

All other individual returns and all corporation returns are sent by the Collector to Washington, where they are examined, classified and referred to the appropriate field divisions for consideration. Then field audits and investigations are made by internal revenue agents under the supervision of the Internal Revenue Agent-in-Charge. These agents may and normally do inspect the taxpayer's books and records, and although accountant's statements may be submitted, the agents generally go behind these statements to the books of original entry. They not only examine the accounting records of the taxpayer but also demand documentary evidence to support the legality, from a tax standpoint, of any transaction which appears unusual on the books.

At the conclusion of his examination, the revenue agent states his findings verbally, indicates the amount of tax deficiency, if any, which he has calculated, and obtains the taxpayer's written agreement to assessment of the deficiency. In many cases, the taxpayer's agreement at this point closes the review, in due course he is sent a demand for the deficiency, and he pays the additional tax.

However, if the taxpayer disagrees with the agent's findings and refuses to sign the agreement to the deficiency, the disputed points may be carried through conference sections and Technical Staff to the Tax Court. An appeal from the Tax Court's decision may be carried to the United States Circuit Court of Appeals, and from there to the Supreme Court.

Since examination of American taxpayers' income tax returns lags one to two-and-one-half years behind the due date for filing the returns, it can readily be seen that, despite the three-year statute of limitations, a taxpayer who carries his case right up to the Supreme Court could, by waiving the statute of limitations, prolong a final determination of his tax liability for a number of years. The time and expense involved in such a procedure would seem to act as a deterrent for most tax cases, but nevertheless the calendars of the Conferees, the Technical Staff, the Tax Court and the Circuit Court of Appeals are crowded with cases, and often a decision from the Tax Court or a higher Court will bring a flood of additional claims for hearings and refunds from other taxpayers who believe that their cases are affected by the decision.

The keynote of the British tax administration is decentralization. Great Britain is divided into approximately 700 districts, each in charge of an inspector, with one to three assistants and a clerical staff. These districts are grouped under a series of inspecting officers, with a chief inspector in London. However, the local inspector has wide discretion and authority, and he is held responsible for the prompt and satisfactory disposition of cases in his own district.

Tax returns are sent out by district offices in April or May, and are completed and filed by the taxpayers within 21 days thereafter. The tax is not computed or paid at this time. During the summer months the inspector and his staff examine the returns, confer with the taxpayer or his accountant, and request the taxpayer to supply such additional information as may be required for a correct determination of his tax liability. Ordinarily the inspector does not examine the taxpayer's books of original entry, but relies upon statements prepared and certified by accountants who have audited the taxpayer's books. The acceptance of such accountants' statements by the tax inspector depends largely upon the extent of the accountant's audit and his standing before the Revenue Department.

The assessments of tax are made by the inspector or by the general commissioners, notice of assessment goes out to the taxpayers in the early fall, and the taxpayer may appeal to the general commissioners of his district or to the special commissioners in London by giving notice to the local tax inspector within 21 days after notice of the assessment. If the taxpayer does not appeal from the assessment, the tax falls due and is paid either in full on January 1, or in some cases, as already mentioned, in installments on January 1 and July 1.

In general well over 90% of all assessments are finally agreed upon between the local inspector and the taxpayer without any further appeal to any other individual or tribunal. The local inspectors, civil service officials, are well trained after their entrance into the service, and they are given authority to settle tax liability finally and are judged by their ability to do so satisfactorily. They seek to arrive at a fair result, giving the taxpayer the benefit of any deductions or relief justified by the law, whether the taxpayer has formally claimed them or not. Hence the taxpayer is willing to lay the facts before the inspector completely, with the reasonable assurance that a sound and equitable decision will be made. Most of the appeals which go to the commissioners and to the courts involve unique points of law.

Next above the local inspectors are the inspecting officers, who are available for consultation on important points to inspectors within their areas. They may also take charge of the disposition of some cases, but do not review cases determined by the local inspectors or their staffs, except where fraud or material error is involved.

The inspecting officers are headed by a chief inspector in London. His staff receives many inquiries from the field forces regarding important points, and these topics are assigned to specialists on the chief inspector's staff. The questions from the field are presented informally, often over the telephone, and answers are promptly given in equally informal manner. These answers are not made available to the public; their interpretation of the law rests with the courts and any questions on the scope of the tax has to be determined by reference to the provisions of the law and to relevant judicial decisions. The British have nothing which compares to the United States Treasury Regulations.

The general administration of the British Revenue Department is in the hands of the

Board of Inland Revenue, consisting of a chairman, deputy chairman and three other members, all of whom are permanent civil service officials. The Board of Inland Revenue is charged by law with the general duties of the care and management of the income tax and other inland revenue duties. Important questions involving issues not covered by departmental instructions come before the board for consideration, as does every case in which either the department or the taxpayer contemplates an appeal to the courts. The Board has little or no original jurisdiction in regard to questions of liability to tax; a taxpayer may present his case for consideration by the board without jeopardizing his right to appeal to the general or special commissioners.

Administration of the income tax in their respective districts is the responsibility of the general commissioners. The land tax commissioners (consisting of all the justices of the peace for each county) select seven to fourteen of their number as "general commissioners." The law requires a general commissioner to have certain property qualifications. The position is purely honorary, no salary attaches to it, but nevertheless the work is apparently performed fairly and conscientiously. In practice, the commissioners' work is largely the hearing and determination of appeals from assessments.

The local tax inspector receives notices of appeal, and when a sufficient number have been accumulated, a meeting of the commissioners is called. The inspector usually represents the Crown at these proceedings and the taxpayer appears in person. The burden rests with the taxpayer to produce evidence to show that the assessment is erroneous; the procedure is informal, and the commissioners render their decisions immediately after the evidence is in. These decisions are not published in any form and the hearing is not open to the public.

Either party may appeal on a point of law from the decision of the general commissioners by "expressing dissatisfaction" with the decision immediately after it is rendered and demand a stated case, embodying the facts and contentions of the parties and the decision, within 21 days thereafter. The clerk of the commissioners prepares the "stated case" and the appeal then goes to the High Court. In practice very little tax litigation is taken to the High Court on appeal from the general commissioners.

Where very complicated technical or legal questions are involved, the taxpayer generally goes directly to the Special Com-

missioners, who are full time officials with headquarters in London. The special commissioners are quite independent from the Treasury and from the Board of Inland Revenue; their principal function is judicial in character, and they correspond generally to the United States Tax Court.

CONCLUSION

There is no question that the British taxpayer bears a much greater burden of income tax than the American. However, it would appear that the American taxpayer bears a much greater burden of confusion in tax regulations. This is due to several causes.

First, the American system of administration centralizes control in Washington, and grant much less discretion to the field agent to make final decisions on tax questions. His work is subject to repeated and time-consuming reviews by higher revenue officials.

Second, the delay in making final disposition of American tax cases results in much uncertainty as to the points involved in these cases which may apply to other taxpayers.

Third, the American system of judicial review is often affected by the liberalism or conservatism of the judiciary, with the result that a decision made by judges in a earlier case may be reversed in later years by decisions of other judges.

In Great Britain the decentralized tax system, administered by the excellent personnel developed by their Civil Service system, has kept assessment and collection of taxes practically current, has kept appeals to a minimum, and has kept taxpayers well satisfied with the fairness and efficiency of the revenue service.

In the final analysis, the income tax and its administration has developed in both Great Britain and the United States in accordance with the temperament of the people of these countries. The British accept the tax as a necessary part of their government's fiscal policy, and its administration as fair and the most efficient system of collecting the revenues from this source.

The Americans, on the other hand, while they now accept the tax and its administration as necessary, always keep the Constitution of the United States clearly in view, as the source of all law, and they therefore never abandon hope that some peculiar circumstance, in their individual cases, will, upon judicial review, render the tax less onerous to them.

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